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SLAMA: Good afternoon and welcome to the Banking, Commerce and Insurance Committee. My name is Julie Slama and I'm the senator for the 1st Legislative District in southeastern Nebraska. I serve as Chair of this committee. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. Committee members will come and go during the hearing. We have-- we have to introduce bills in other committees and get called away for that reason. It's not an indication that we're not interested in what's being heard. It's just part of the process. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please silence or turn off your cell phones. Move to the front row when you're ready to testify, and the order of testimony will be as follows: introducer, proponents, opponents, neutral, and then the introducer's closing. Testifiers, please sign in. Hand your pink sign-in sheet to the committee clerk when you come up to testify. Spell your name for the record before you testify. Be concise. It's my request that you limit your testimony to three minutes and we'll be operating on a strict light rule with that today. So we ask really that you keep it to three minutes. If you will not be testifying at the microphone, but want to go on record as having a position on a bill being heard today, there are white tablets at each entrance where you may leave your name and other pertinent information. These sign-in sheets will become exhibits in the permanent record at the end of today's hearing. Written materials may be distributed to committee members as exhibits only while testimony is being offered. Hand them to the pages for distribution to the committee and staff when you come up to testify. We'll need ten copies. If you have written testimony but do not have ten copies, please raise your hand now so the page can make copies for you. To my immediate right is committee counsel, Joshua Christolear. To my left at the end of the table is committee clerk, Natalie Schunk. And the committee members with us today will introduce themselves, beginning on my far left.

BOSTAR: Eliot Bostar, District 29.

von GILLERN: Brad von Gillern, District 4.

JACOBSON: Senator Mike Jacobson, District 42.

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KAUTH: Kathleen Kauth, District 31.

BALLARD: Beau Ballard, District 21.

DUNGAN: George Dungan, District 26.

SLAMA: All right, thank you. Also assisting the committee today are our amazing committee pages, Kaitlyn and Isabelle. The committee will take up bills today in the following order: LB152, LB392, LB437, LB 256, LB730, and LB743. And with that, we will open the hearing on LB152, Senator Dover. Welcome.

TIM SCHROEDER: Thank you, Chairwoman Slama and good afternoon, committee members. For the record, my name is Tim Schroder, T-i-m S-c-h-r-o-e-d-e-r, and I am the legislative aide to Senator Robert Dover, who represents Legislative District 19, which consists of Madison County and the southern half of Pierce County. Senator Dover has introduced LB152 on behalf of the Nebraska Real Estate Commission to remove the requirement for membership campgrounds to register with the Nebraska Real Estate Commission. The commission going forward will be called NREC. Revised Statutes 76-2101 to 76-2121 are known as the Membership Campground Act. A membership campground is defined as a facility that offers a camping agreement evidencing a purchaser's right to use the campground for more than 30 days during the term of the agreement. Under the act, membership campgrounds are required to register with the Nebraska Real Estate Commission. This was to add protection to consumers. However, this registration requirement has resulted in little to no value to the state and consumers. There are currently four-- only four registered campgrounds in the state of Nebraska, and the NREC has not received a compliance complaint in over 13 years. Registration currently costs $330 and must be renewed annually for $330 as well. NREC's current involvement in the registration process has become simply pushing occasional renewals and registration questions back and forth between itself and campgrounds, not protecting consumers. All other consumer protections of the Membership Campground Act will remain in place. Civil action can be taken by the consumer with recoverable attorney fees and court fees by the prevailing party, and the Attorney General may enjoin violations of the act. LB152 will simply do away with the registration provision that has consumed NREC resources that would be better utilized protecting consumers elsewhere. Greg Lemon, the director of the

Nebraska Real Estate Commission, will follow me and will also be happy to answer any questions you may have. Thank you.

SLAMA: Thank you, Mr. Schroeder. We don't ask questions of LAs that introduce bills on behalf of the senator, and we also waive closing so you're free to go.

TIM SCHROEDER: Thank you.

SLAMA: Proponent testimony for LB152.

GREG LEMON: Thank you.

SLAMA: Good afternoon.

GREG LEMON: Good afternoon. Chairperson Slama, members of the Banking, Commerce and Insurance Committee, I want to thank Senator Dover and his legislative aide for helping us with this legislative bill today. I'll give you just a little bit of background and keep it short and try to answer any questions you might have. But this act was first passed in 1994. It was before my time. I've been there a while, but not that long. And I believe it was aimed at your regional or national organizations that sold memberships in campgrounds, and the definition is for more than 30 days. The camping landscape has changed since then. And most of the people we have that are operating under the definitions in the bill are local, selling more than 30-- 30 days because people seem to like to camp and they'll buy a site and then they sell these contracts. And so I think the consumer, as I said, I wasn't there, but I think the consumer protection provisions of the bill were really aimed at those people that were buying, you know, kind of this nebulous contract that I have the right to use campgrounds all over the country. And if it doesn't work out for me, I want to have some way to be able to reach out to this company. The landscape has changed. We've reached out to try to get some more of these people registered because that's the law. But as we've done this, we've also thought about what are we doing here? And as we looked at what we were doing, we seemed to mostly be pushing paper back and forth between the campgrounds and the Nebraska Real Estate Commission. In my 13.5 years, we haven't had a complaint. We don't get inquiries. You know, in the real estate business on a daily basis, we talk to agents, we talk to people buying and selling houses. We take a proactive stance and try to help them through the process so problems aren't created. In this one, as-- as was stated in the introduction, I think all we're doing is pushing paper back and forth. I don't think that really does anybody any good. I think some of you have been in the Legislature awhile have seen some of these bills that talk about barriers to entry and over government regulation. And so I've always said I agree with that philosophy. But let's look at these things one thing at a time and regulate appropriately in each area. And so this is our push to regulate appropriately in this area. And I would be glad to answer any questions you might have.

SLAMA: Thank you, Director Lemon. I have one question for you. Could you please say and spell your name for the record?

GREG LEMON: I'm sorry and I should know better. Greg Lemon, G-r-e-g L-e-m-o-n, director of the Nebraska Real Estate Commission. I've done this for quite a while. I think it's the first time I've missed that one. Thank you.

SLAMA: No worries.

GREG LEMON: Thank you for very gently correcting me.

SLAMA: Absolutely. Are there any questions from the committee? Seeing none, thank you very much.

GREG LEMON: Thank you very much.

SLAMA: Additional proponent testimony for LB152. Seeing none, is there anybody here to speak in opposition to LB152? Seeing none, is there anybody to speak in the neutral capacity on LB152? Seeing none, that brings to a close our hearing on LB152. For the record, there were no letters for the record on LB152 We'll now move to the next bill on the agenda, which is Senator Ballard's LB392. Good afternoon.

BALLARD: Good afternoon. Good afternoon, Chair Slama, members of the Banking, Insurance and Commerce Committee. My name is Beau Ballard. For the record, that is B-e-a-u B-a-l-l-a-r-d, and I represent legislative District 21, which are-- which is in northwest Lincoln and northern Lancaster County. I'm here today to introduce LB392, a bill that allows employers, employees and organizations or the trustees of employment associations sponsoring a health benefit plan to consent to electronic document delivery on behalf of their represented employees. Currently, when an individual is enrolled in health insurance provided by their employer, all related documents to the insurance plan get mailed to the employee unless the employee specifically requests that they receive their documents electronically. LB392 would allow employers to save the employees that step, a step that can sometimes be needlessly complicated depending on how easy the particular insurance company's Website-- Website is to use. There are guardrails for-- for sponsors to-- to make this forward-thinking step on the employee's behalf. The plan's sponsor must confirm the employee uses electronic communication like email, text, etcetera, provide the employee with an opt-out provision, and abide by all state and federal laws on delivery of healthcare-related information documents. The change advocates in LB392 will likely-- is likely long overdue with the advancement of technology and communication. The legislation assures that there's access to their own health benefits and make it easier to access, store, and monitor without the extra step and inconvenience. I did pass out an amendment that just takes out some-- some insurance plans, but Mr. Bell will be following behind me to explain that in more depth. I'd be happy to answer any questions and I hope you can pass this to General File.

SLAMA: Thank you, Senator Ballard. Are there any questions from the committee? Seeing none, thank you. And we'll open it up to proponent testimony for LB392. Good afternoon.

JEREMIAH BLAKE: Good afternoon, Chairwoman Slama and members of the Banking, Commerce and Insurance Committee. My name is Jeremiah Blake, spelled J-e-r-e-m-i-a-h B as in boy-l-a-k-e. I'm the government affairs associate and registered lobbyist for Blue Cross and Blue Shield of Nebraska, testifying in support of LB392. Something about this chair feels a little bit different when you're testifying as a proponent. [LAUGHTER] I want to thank Senator Ballard for introducing this bill at the request of Blue Cross and other health insurance carriers. As Senator Ballard explained, this bill would allow the sponsor of a health benefit plan to consent on behalf of the employee to the electronic delivery of communications related to the plan. The types of documents that would be delivered by electronic means include policies, evidence of coverage, explanations of benefits, summary of benefits and coverage, and any claims or appeals-related material and other information. I personally opted for electronic notices from my-- for my health insurance coverage, so I'm familiar with how this works. I get an email from Blue Cross saying that there is an explanation of benefits available in the subject line of the email, and the body of

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the email states that the explanation of benefits is available and it provides a hyperlink for me to sign into my account. When I click that link, it directs me to a secure log-in page where I can access and view my account, including the explanation of benefits, my insurance card, find information related to my deductible, any kind of cost estimate as well as provider information. While I prefer to access this information on my phone instead of having those paper explanation of benefits laying around the house waiting to be shredded, other people prefer to receive paper notices. And under this bill, as Senator Ballard explained, an individual could continue to opt out of the electronic delivery of these notices. And then finally, as this has the added benefit of reduty-- reducing printing and postage expenses for the group health plan. Any savings achieved by reducing these printing and postage expenses would not be credited to Blue Cross. Those-- those savings are actually they flow back to the health plan that opts for the electronic notices. So again, for these reasons, we believe this is a commonsense option for group health plans. I want to thank Senator Ballard for introducing this bill, and I'd be happy to answer any questions you have.

SLAMA: Thank you, Mr. Blake. Are there any questions from the committee? Seeing none, thank you very much.

JEREMIAH BLAKE: Thank you.

SLAMA: Good afternoon.

ROBERT BELL: Good afternoon, Chairwoman Slama and members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I am executive director and registered lobbyist for the Nebraska Insurance Federation. I am here today to testify in support of LB392. Insurance, like most other areas of business and the economy, is in the midst of a transformation. Technology is fundamentally changing how consumers interact with insurance. The expectation, especially for younger generations, is that insurance will seamlessly interact with technology. In the insurance world, the term for technological innovation in insurance is InsurTech. Similar to FinTech in the banking world, InsurTech is one of the most powerful forces in transforming the consumer experience. As more and more people rely on their mobile devices and more people-- young people enter the workforce, they have their first-- they have their first experience purchasing insurance, and the expectations of the consumer is changing. The InsurTech movement is embracing this change and it-- and as both-- and both as startups look to disrupt traditional insurance ideas and incumbents; i.e., existing insurers look to exploit technology to revolutionize the policyholder experience. The problem is that for numerous good reasons, insurance is one of the most heavily regulated industries in the United States. The insurance codes in the various states have numerous consumer protections in place to protect policyholders-- policyholders from unfair trade practices. As a result, new technologies that emerge to benefit consumers are often met with antiquated statutory roadblocks. A few years back, the Legislature addressed one of the hurdles for innovation by amending Nebraska law to permit the e-delivery of notices and documents for both property and casualty insurers and life insurers. This change has allowed insurance carriers to better meet the wants and needs of its consumers. Thank you. Now LB392 seeks to do the same for health benefit plans by providing in the law that the health plan sponsors may, on behalf of the covered persons, provide the consent for the e-delivery of all plan documents. LB392 also places some commonsense restrictions on e-delivery, such as requiring the plan sponsor to confirm that the covered person routinely uses electronic communications during deployment, and it allows the covered person to opt out if they so desired. I also appreciate Senator Ballard and the health plans working with other insurers to amend the definition of health benefit plan to exclude various property and casualty policies that may be unintentionally included in the legislation as drafted. And that's the amendment that Senator Ballard handed out. The members of the Nebraska Insurance Federation support LB392. Thank you for the opportunity to testify.

SLAMA: Thank you very much, Mr. Bell. Are there any questions from the committee? Senator Jacobson.

JACOBSON: Yes, thank you, Chair Slama. Mr. Bell, I'm curious. So what steps do you take to ensure that you've got the right electronic delivery address for the insured? Can you [INAUDIBLE]

ROBERT BELL: Well, I think in this case it's going to be on the-- in the hands of the plan sponsor. And so take a bank, I mean, as if you're providing health insurance perhaps through the association plan or perhaps through your own plan. I'm not actually all that familiar. But it would be up to the plan sponsor to provide that information to the insurer and probably working with the covered person, right, making sure they grab that information during open enrollment, everything like that. So give them the opportunity to also opt out.

JACOBSON: So basically, if it's a VEBA plan that, say, Blue Cross is managing, then-- then this information would be able to be delivered by the administrator for the VEBA plan--

ROBERT BELL: Right.

JACOBSON: --to its covered members.

ROBERT BELL: Right. Right.

JACOBSON: And then they'd have to keep-- keep track of the electronic addresses and so on for the ins-- the, the covered.

ROBERT BELL: Yeah. Yeah. And they would probably work that out in however their contracts would go between the-- the plan sponsor and the insurance company. I mean, I can speak from my own experience. You know, I got the Aetna app on my phone so much like Mr. Blake, when I go looking for explanation of benefits, we still get them in the mail. But that's not the one. That goes to the shredder. I have it electronically. That's where I'm going to find the information and realize it doesn't apply to everybody. For instance, my dad still on his employer-sponsored plan and he doesn't actually use a computer at his work, so he would still be required to get the plan information in the paper.

JACOBSON: And as a follow-up, is-- is the industry looking at other insurance products as well to do this electronically?

ROBERT BELL: So we already do it in the property casualty area and life insurance, at least the law allows us to do.

JACOBSON: OK.

ROBERT BELL: I mean, every-- every insurance company is a little bit different on how they market their plans and how they proceed with business. So some companies do this and others do not. We didn't run this language through the Federation after Blue Cross and United presented the information to the Federation. And, you know, it still could be possible that we're missing a line of insurance out there.

And if so, I'm sure we'll be back before the Legislature asking for that.

JACOBSON: Well, but to the point, so then basically a life insurance policy, for example, would-- would be one where you can do electronic delivery--

ROBERT BELL: Yes.

JACOBSON: --of notices and that would probably also include payment notices for premiums.

ROBERT BELL: Yes, it would.

JACOBSON: So how do we keep track of those email addresses and that?

ROBERT BELL: Well, that would be up to the life insurance company to do so. So they would have to make that decision on whether or not they want it with their consumer. So if they were presented with a contract that allowed for the e-delivery of those particular notices, it would be up to the life insurer, if they agreed to that, to keep track of that information.

JACOBSON: So if an insurer bought another ins-- another life insurance company and had to merge their computer systems, then they would have to figure that part out then as how to get the electronic [INAUDIBLE].

ROBERT BELL: Yeah, I think in that case, a lot of those companies keep those legacy systems in place.

JACOBSON: Right.

ROBERT BELL: And so oftentimes they're running multiple computer systems. I've not been involved in-- in that kind of merger before, but that's my understanding.

JACOBSON: Of course, my final question is, I'm assuming then you could probably have an ability to put multiple email addresses so that a third party could also be contacted at the time of default of-- of-- of [INAUDIBLE].

ROBERT BELL: You know, I was wondering if that's where you were going, Senator Jacobson.

JACOBSON: [INAUDIBLE]

ROBERT BELL: Perhaps.

JACOBSON: Why let a-- why let a crisis go-- why let an opportunity go to waste?

ROBERT BELL: I-- I completely understand, Senator Jacobson.

JACOBSON: Thank you.

ROBERT BELL: You're welcome.

SLAMA: All right. Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you, Mr. Bell.

ROBERT BELL: You're welcome.

SLAMA: Good afternoon.

KORBY GILBERTSON: Good afternoon, Senator Slama, members of the committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of Nebraska Association of Health Underwriters, who represent over 300 life or health insurance and employee benefits professionals across the state of Nebraska. We, too, are in support of LB392. Less paper if you want it is a good thing. That's all I'll bother you. I think some of the answers to your questions, Senator Jacobson, are at the bottom of page 2 where it talks about that who-- the people who are doing this, the plan operators, they still have to function under existing statutes for doing electronic delivery. So that's in statute already.

SLAMA: Fantastic. Thank you, Ms. Gilbertson. Are there any questions from the committee? Seeing none, thank you. Good afternoon.

BRENT SMOYER: Good afternoon, Chair Slama and members of the committee. My name is Brent Smoyer, B-r-e-n-t S-m-o-y-e-r, and I appear today as a registered lobbyist for UnitedHealth Group. I don't know that there's anything I can say that hasn't already been said or any questions that could be answered that already haven't been answered. We just would like to thank Senator Ballard for the introduction of this bill and fully support its passage and urge you to move it to the floor.

SLAMA: Thank you, Mr. Smoyer. Are there any questions from the committee? Seeing none, thank you very much. Additional proponent testimony for all 392. Is there anybody here to testify in opposition to LB392? Seeing none, is there anyone here to testify in the neutral position on LB392? Seeing none, Senator Ballard waives closing. For the record, there are no letters for the record on LB392. We'll move now to the next hearing for the day, which is Senator Ballard's LB437. Welcome back.

BALLARD: Good afternoon, Chair Slama and members of the committee. My name is Beau Ballard. For the record, that is B-e-a-u B-a-l-l-a-r-d. I represent Legislative District 21, which are-- which encompasses northwest Lincoln and northern Lancaster County. I'm here today to introduce LB437, which changes a renewal period for insurance producer agencies from an annual to a biennial basis. The licensure-- the licenses renew in April of each odd-numbered year. Currently, the Insurance Producers Licensing Act requires insurance producers to get two licenses, an individual insurance provider license and a business entity license. The business entity license expires annually. The individual license expires biennially, with individuals born in even-numbered years renewing their license at the end of their birth month in the even-numbered years; the individuals born on odd number of years renewing their license at the end of their birth month on odd-numbered years. Having individual insurance producers and business entity licenses on different renewal schedules unusually complicates the license process and can confuse individuals required to obtain both licenses. LB437 streamlines the process for these individuals by aligning the renewal schedules. I appreciate the Department of Insurance bringing this bill. They'll be behind me to answer any technical questions, but I'm happy to answer any questions that the committee might have.

SLAMA: Thank you, Senator Ballard. Are there any questions from the committee? Seeing none, thank you. We'll now open it up for proponent testimony on LB437. Good afternoon, Director.

ERIC DUNNING: Good afternoon. Madam Chair and members of the Banking, Commerce and Insurance Committee, for the record, my name is-- is spelled E-r-i-c D-u-n-n-i-n-g. I am the Director of Insurance, and I'm here to testify in support of Senator Ballard's LB437. And I wanted to begin by thanking him for working with us to get this matter to your attention. I think he gave a great description of what the bill does and why. But I think it's important to note that Nebraska is currently only one of six states that require these licenses to be renewed annually. So moving to every other year would allow us to be consistent with the individual producer licenses standard and hopefully be a little easier for folks to remember as they're moving forward. For these reasons, we support LB437 and we appreciate the opportunity to testify in support. If there are any questions, of course, I'm delighted to answer them in great depth.

SLAMA: I'm so excited to see what we can think of. Thank you, Director Dunning. Are there any questions from the committee? Seeing none--

ERIC DUNNING: No questions.

SLAMA: --opportunity.

ERIC DUNNING: I'm very sad. Thank you.

SLAMA: Thank you. Additional proponent testimony on LB437? Good afternoon.

CATHY KLASI: Good afternoon, Chairman Slama, committee. I am the executive director for professional insurance Agents, and I-- oh, I'm sorry. Here you go.

SLAMA: Could you please state and spell your name for the record, please?

CATHY KLASI: C-a-t-h-y K-l-a-s-i. Anyway, I am the executive director for a independent insurance agent trade association, which has about 1,200 independent members. And I am here in support of LB437 changing the business entity license to biennial renewal process to give Nebraska renewal regulatory process that is the same as what most states currently provide, like Director Dunning had said. This will be helpful to out-of-state PI businesses and entities who are licensed in Nebraska because the renewal process will be the same as what they currently do in other states. And this will reduce the chance for licensing error in Nebraska by failing to renew the license annually. Currently, an individual insurance producer license is issued on biennial basis, but the business entity license is renewed every year.

And I can attest I have to renew ours every year. It's not fun. That's a whole nother process. Since agents and an agency renew their license on a biennial basis, it just only makes sense that the agency business entity license also be issued on a biennial basis. So I'd be happy to answer any questions if you have one.

SLAMA: Thank you very much, Madam Director. Are there any questions? Yes, Senator Jacobson.

JACOBSON: I just have one. I appreciate this bill. And obviously if the director is in favor of it, it's kind of hard to argue with him. But correct me if I'm wrong, but do we not also currently corporate good standing, aren't those every other year? I'm trying to recall.

CATHY KLASI: Yes.

JACOBSON: And so this would really be consistent with that as well for LLCs, corporations and so on so.

CATHY KLASI: Yes.

JACOBSON: And I concur with you that the director always, always has an ability to come in and make changes and call out the bad actors. So it seems to me that this seems more than sufficient. So thank you.

CATHY KLASI: Thank you.

SLAMA: Thank you, Senator Jacobson. Are there any additional questions? Seeing none, thank you very much.

CATHY KLASI: Thank you.

SLAMA: All right. Additional proponent testimony for LB437? Seeing none, oh, no worries. Good afternoon.

CAITLIN HOLMAN: Good afternoon, Chairwoman Slama, members of the Banking, Commerce and Insurance Committee. My name is Caitlin Holman, that's C-a-i-t-l-i-n H-o-l-m-a-n, and I am here today to testify in support of LB437 on behalf of Big I, the Independent Insurance. Agents of Nebraska. Big I is a statewide trade association representing almost 600 independent insurance agencies and 2,200 agents throughout Nebraska. Big I is a grassroots organization involved in promoting legislation in the interest of insurance consumers and independent agents for over 100 years. LB437 promotes these goals, making it easier for Big I members to operate in Nebraska by changing the renewal period for business entity licenses issued under the Insurance Producers Licensing Act from annual to biennial. Thank you, Chairwoman Slama and members of the committee for your time today. And thank you to Director Dunning for his support. I hope that you will support the passage of LB437.

SLAMA: Thank you very much, Ms. Holman. Are there any questions from the committee? Seeing none, thank you. Good afternoon again.

KORBY GILBERTSON: Good afternoon again. For the record, my name is Korby Gilbertson. It's K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of the Nebraska Association of Health Underwriters in support of LB437 NAHU represents over 300 health insurance and employee benefit plan professionals. And I won't-- I don't have anything to add that hasn't already been said, so I'd be happy to take any questions.

SLAMA: Thank you very much, Ms. Gilbertson. Are there any questions from the committee? Seeing none, thank you very much.

KORBY GILBERTSON: Thank you.

SLAMA: All right. Additional proponent testimony for LB437? Seeing none, is there anybody here testifying in opposition to LB437? Seeing none, is anybody here to testify in the neutral capacity on LB437? Seeing none, Senator Ballard waives his closing. And for the record, there are no letters for the record on LB437, bringing a close to our hearing on that bill. We'll now open the hearing on LB256. Senator Brewer.

TONY BAKER: Let me go get him.

SLAMA: Sounds great. Just as we stand at ease here for a moment, could I see a raise of hands for anybody that plans on testifying on LB256? Great. Thank you. And as we get organized, proponents, if you could move up towards the front rows, that'll help us expedite things a lot quicker. And then once proponents are through, if you're opposed, please do the same just so we can cycle through things more efficiently.

[EASE]

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SLAMA: Not. Not today? No, definitely not today.

BREWER: Sorry about the delay.

SLAMA: No worries, Senator. Good afternoon.

BREWER: Good afternoon. All right. Good afternoon, Chairman Slama and members of the Banking, Commerce and Insurance Committee. I'm Senator Tom Brewer. For the record, that is T-o-m B-r-e-w-e-r and I'm here representing 11 counties of the 43rd Legislative District of western Nebraska, introducing LB256. Last September, I used my column to call attention to the rural healthcare challenges. I noted that the rural healthcare facilities are struggling and some have been forced to close. Several counties in western Nebraska have the highest percentage in the state of people 65 or older that are living alone. These factors, along with the shortage of healthcare workers, means that Nebraskans living in rural Nebraska are losing access to healthcare. So, I find this unacceptable and I was approached about this bill and I think one should have a chance to hear through all of the, the issues. You'll understand why it is so critical to rural Nebraska. One way to solve the problem across Nebraska is the use of telehealth. More and more providers in more and more specialties are able to connect with their patients via telehealth to address their healthcare concerns from anywhere in Nebraska. During most of the COVID-19 pandemic, insurance companies in Nebraska played ball on healthcare with telehealth by agreeing to reimburse telehealth visits at the same rate as in-person visits and telehealth flourished. Now, the rug has kind of been pulled out from underneath our providers without much willingness to, to compromise and work with us. I just want to note that this is not a practice of all insurance companies and I compliment all those who've continued to support our telehealth. It's an important tool. While I do not want government getting involved in business issues necessarily, consumer insurance is different. Our, our constituents do not have an effective way to negotiate what their insurance company is willing to do or not do. Further, for those that-- say those-- for those that are opposed to all mandates, I would like to note that the Legislature has already mandated that Medicaid pay providers 100 percent of the in-person rate for telehealth visits. And two years ago, Senator Arch passed a bill to mandate the same rate to be paid for mental health and behavioral health providers, regardless of how those services were delivered. In areas where Legislature decides an issue is important enough to care for citizens of this state, it is appropriate for us to enact, mandate, especially in this case. I'm closely following the healthcare situation in my district and across our state and will continue to look for solutions like this one to keep our hospitals, clinics and long-term care facilities open and financially solvent and able to deliver care to our constituents. I want to thank you for your time and take any questions.

SLAMA: Thank you, Senator Brewer. Are there any questions from the committee? Senator Jacobson.

JACOBSON: Thank you, Chair Slama. Senator Brewer, thank you for bringing this legislation. I think most people maybe don't realize this, but with redistricting, I picked up the four counties north of Lincoln County which used to be your counties, and now you've moved up to 11 rural counties. So you and I can both agree that when you look at McPherson, Hooker, Thomas, Logan County, not a lot of people and yet they need healthcare. And when you look at the cost for them to travel to North Platte as an example, to a hospital facility there, it's at great expense to do so. We also know that doctors are taking the time to really work with these patients. And what we learned through COVID, if we learned anything, was that telehealth works and it's an effective way to be able to deal with those people. You might just share with us when you look at your counties and these four counties north, some of the distances that these patients literally have to travel to get to a hospital facility, let alone one like GPH operates in North Platte.

BREWER: Well, your, your now counties were my counties and, and Mullen is a great example. Mullen brought me up to see their telehealth in action. So I didn't actually get a say and while the patient was going through the questions and, and that, that routine, but I had a chance to talk to him after they came out, talked to the doctors before, to kind of understand how it all worked. And I believe they were using a, let's see, a licensed practical nurse who was then calling the doctor. They would discuss the issues, determine what the best course of action was going to be. If it was something that there was a little bit of question to, then they'd refer them on to North Platte from there. But probably 90 percent of the folks who came in that day were able to get a script and be able to, to get care. It doesn't matter what town I pick, they have-- they're down to one doctor or in some cases, a PA. And, and of course, you can't be there 24/7 if, if you're the only doc. So we're, we're getting limited, limited ways to, to care and that compounds with the fact that our emergency services, our ambulance services are dwindling. We lost our ambulance in, in Merriman. So the difference between Gordon and Merriman is just short of 100 miles, so less and less options out there. Telehealth is really helping to fill some of the gap and without it, there'd just be a tremendous number of folks that, that, you know, just really have no other options except lots of miles and as they get elderly, that, that gets even harder. And so, you know, it can be anywhere from 75 miles one way to, you know-- and, and that's being kind if you're looking at Ellsworth and trying to get to Gordon or North Platte. I mean, they're, they're all a pretty good push.

JACOBSON: Thank you.

SLAMA: Thank you, Senator Jacobson. Are there any additional committee questions? Senator von Gillern.

von GILLERN: Thank you, Senator Brewer. I understand telehealth and actually-- I actually used it during COVID. It was terrific. I was very grateful that it was available. And I live in Omaha, so it was very-- still very beneficial. I think the doctor I spoke with was I-- we were on a Zoom call and I think it was actually in his car, which was interesting, but lends me to the question about increased efficiencies and I-- obviously this bill is about the reimbursement rate.

BREWER: Correct.

von GILLERN: Is it-- am I connecting the dots properly to say that the doctors are not motivated enough to use telehealth as a tool, currently, because the reimbursement rates aren't, aren't equivalent or is there another reason? Can you help me understand that?

BREWER: Well, I think it's contributing to-- if, if-- there's no advantage to telehealth, then there isn't the incentive to use it. If you're getting paid at a different rate, if you're providing the same ability, otherwise you're able to, you know, talk to the patient, determine the need, do a script or whatever is needed for, for care, then for them to turn around and not be willing to reimburse at the same rate is, is, is the issue, I think, at hand. And, and really, it's a time issue too, because you can generate through so many more patients than if you're actually physically having to go to locations and especially if half a day drive going from one place to another where it's just a matter of seconds and a phone call.

von GILLERN: Right.

BREWER: And, and I'll be followed by some folks from the hospital association that can probably give you some, some better examples, but--

von GILLERN: OK. All right. Thank you.

BREWER: --they asked me to bring the bill and, and you know, if you come from where I'm at, that's just the right thing to do.

von GILLERN: Thank you.

SLAMA: Thank you, Senator von Gillern. Any additional committee questions? Seeing none, thank you, Senator Brewer. Will you stick around to close?

BREWER: You betcha.

SLAMA: Thank you. Proponent testimony for LB256. Good afternoon.

ANDREW WHITNEY: Good afternoon, Senator Slama, members of the Banking, Commerce and Insurance Commission [SIC]. I'd like to take this opportunity to testify in support of LB256. My name is Andrew Whitney, A-n-d-r-e-w W-h-i-t-n-e-y, and I'm with Bryan Telemedicine in Lincoln. Bryan Telemedicine was founded in 2014 with the goal of strengthening rural hospitals by helping to care for more patients in their home communities. We facilitated thousands of patients-- the treatment of thousands of patients in rural communities who have otherwise been required to travel or be transferred to Lincoln, Omaha or an out-of-state metropolitan area for care. As you travel west or north beyond Lincoln and Omaha, there are very few metropolitan areas. As the population density decreases, the realities of economics dictate there will always be a shortage of medical specialists available in the areas of the state. Additionally, the growing physician shortage in many specialties has caused lengthy delays in access to care for patients in both rural and urban communities across Nebraska. Synchronous telehealth is the standard of care for acute stroke, providing immediate access to stroke specialists around the clock in both rural and urban settings. For patients experiencing an acute stroke event, time is brain tissue and the immediate care and treatment provided by telehealth has had a significant positive impact on outcomes and quality of life after a stroke. Acute pulmonary care via synchronous telehealth made a life or death difference during the COVID-19 pandemic by allowing rural healthcare providers to access pulmonary and critical care specialists at a time where they had no choice but to keep critically ill patients in their facility. Our experience has shown that many acute psychiatric patients, especially minors, are often required to take long car or ambulance rides to Lincoln to be assessed for admittance to inpatient treatment. Approximately 50 percent of patients sent to Lincoln do not meet the criteria for inpatient treatment and have to travel back to their communities for outpatient care. The use of synchronous telehealth assessments in rural emergency rooms has eliminated the unnecessary travel for these patients, offering immediate assessment at the time of crisis and connecting them to local or telehealth resources when they don't meet the criteria for inpatient admission. Asynchronous tele-- telemedicine allows primary care providers to access specialists regardless of their distance from a metropolitan area. Additionally, telemonitoring of a patient's vital signs, biometric data and compliance with medications is a key component to the successful management of chronic conditions such as diabetes, congestive heart failure and other chronic conditions. Telemedicine also allows seniors to age in place. I testify in support of LB256 because the availability of telehealth means that your zip code does not determine your, your healthcare options. Requiring payment parity for healthcare services provided by a telehealth makes the good life accessible to all Nebraskans. I urge you to take action on support of LB256 to allow Nebraskans to have the access to care they need when they need it in their home communities and we welcome any questions.

SLAMA: Thank you very much, Mr. Whitney. Are there any committee questions? Seeing none, thank you very much.

ANDREW WHITNEY: Thank you.

SLAMA: All right. More proponent testimony on LB256? Don't be shy. Please battle it out to take that chair. Good afternoon.

TIFFANY UHER: Good afternoon. Thank you, committee. My name is Tiffany Uher, T-i-f-f-a-n-y U-h-e-r, and I'm the executive director of Milk

Works. I'm here today to testify in support of LB256 and to specifically address how telemedicine has improved access to breastfeeding support. Milk Works is a nonprofit community breastfeeding center that has served families throughout the state of Nebraska for 22 years. The mission of our organization is to create a healthier, healthier community by empowering families to meet their breastfeeding goals. Milk Works provides individual clinical lactation support from board certified professionals in person in Lincoln and Omaha and via telehealth to all of Nebraska. Similar to many clinical providers, our first experience offering telehealth services was in March of 2020. Milk Works serves primarily women who are either pregnant or have babies under one year of age. Our vulnerable service population and precautions during the COVID-19 pandemic presented an opportunity to pivot operations and offer support to new families who are tentative about being in the community with their brand new babies. As precautions surrounding the pandemic have changed, our telemedicine appointments have dropped slightly. However, in 2022, Milk Works still conducted 160 telemedicine appointments. We have found that the clients who are still requesting virtual appointments reveal gaps that existed previously in our system of care. Telemedicine benefits moms who have multiple small children and leaving the house is difficult, it provides flexibility and options for individuals with limited transportation or who live in single car households. Telemedicine benefits mothers who are returning to work and having just exhausted their paid leave during maternity leave need to schedule the appointment during their 15-minute pump break. Perhaps most significantly, we have seen that telemedicine appointments have opened access to mothers in rural communities. Last year, over half of our telemedicine appointments were conducted with families outside of a 60-mile radius of Lincoln and Omaha. Since starting telemedicine, we have helped more mothers in cities and towns like Nebraska City, Columbus, Grand Island, Sutherland, Sidney and Scottsbluff. Unfortunately, as reimbursement rates begin to decrease, it becomes less sustainable for our clinic to offer virtual services. LB256 would ensure that providers such as Milk Works can leverage technology and increase access to care to families throughout the state. Thank you.

SLAMA: Thank you, Ms. Uher. Are there any questions from the committee? Seeing none, thank you very much.

TIFFANY UHER: Thank you.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

SLAMA: Good afternoon.

BURKE KLINE: Good afternoon, members of the Banking Committee-- Commerce and Insurance Committee, my name is Dr. Burke Kline, B-u-r-k-e K-l-i-n-e. I am the chief executive officer for Jefferson Community Health and Life Hospital in Fairbury, Nebraska. I'm here to testify in support of LB256 on behalf of the Nebraska Hospital Association. Want to thank Senator Brewer for introducing this important legislation. With COVID-19 public health emergency spurring regulators to ease on rules for telehealth for seniors, children and families, especially those in rural and underserved communities like mine face fewer barriers to medical care access. The federal and state telehealth waivers instituted during the pandemic demonstrate how quickly policymakers, payers and providers can work together on behalf of families and patients. We need to come up with some long-term solutions for permanent removal barriers to deliver safe, reliable care via telehealth to all Nebraskans. By preserving telehealth flexibility you will support the investment made in building an infrastructure to meet patients wherever they are in the state. I urge you to please see the importance of this and move forward with it.

SLAMA: Thank you very much, Dr. Kline. Are there any questions from the committee? Seeing none, thank you very much.

BURKE KLINE: Thanks.

SLAMA: Good afternoon.

CHANCE KLASEK: Hello. My name is Chance Klasek, C-h-a-n-c-e K-l-a-s-e-k, and I'm the CFO at Jefferson Community Health and Life in Fairbury, Nebraska. I am here to testify in support of LB256. Payers and government need to recognize that the added cost of telehealth systems, their upkeep and eventual need for upgrading justify at least parity and payment for healthcare services provided by this technology. To implement video telemedicine effectively in the long term, practices must buy the right technology, invest in staff training, change clinical schedules and help their patients obtain and navigate the necessary technology. They will undertake this investment only if they can recoup it within a reasonable number of years. Providers must be fairly compensated for their time and the infrastructure necessary to build telehealthcare programs. There is a lack of specialists in rural Nebraska. Telehealth allows patients to remotely visit specialists in urban areas without taking a day off work for traveling. Telehealth provided care for patients that needed it most during the pandemic. It was an undervalued resource that became the next best alternative to see patients without risking their health, which possibly freed up hospital beds because we were able to keep them out of the hospital. Other rural hospitals do not have telehealth services because of the costs associated with creating and maintaining the platform. Additionally, even though there was great utilization of telehealth services during the pandemic, hospitals are reluctant to invest in expanding services, due to the uncertainty of the rug being pulled out from under their feet. Payment parity is needed to ensure that telehealth programs are stable well into the future, especially for specialty services. Thank you.

SLAMA: Thank you very much. Mr. Klasek. Are there any questions from the committee? Yes, Senator von Gillern.

von GILLERN: Thank you for being here today. You're the money guy. You're the guy I was waiting to--

CHANCE KLASEK: Yeah.

von GILLERN: --waiting, waiting to ask this question of. The-- when COVID hit, I know the business that I was involved with at the time, it was a very easy shift to go to online Zoom meetings. And so it really didn't drive up costs because most people had PCs on their desk or they were using their phone or whatever. Can you, can you talk to me about the increase in technology that you're talking about that really-- we're not doing remote surgeries via telehealth and I'm really talking about exams or non-critical type incidents, I believe. And if you could enlighten me a little bit more on that, I'd appreciate it.

CHANCE KLASEK: Yeah. So I think the, the visits for provider, you know, one on one kind of costs relatively small. There's a fee like that we pay personally to, you know, someone like Bryan Telemedicine because they have the ability to do that. So there's a little fee for that service that they provide for us, but there's a-- there's also some technology. It's not always just an app, You know, if there's additional ways to, you know-- and they might be able to speak to the equipment even better than I am. But it's-- for us, it was maybe $20,000 or $30,000 that we had to invest in the, the machine and equipment that we use to get a little bit better look at things other than just your phone.

von GILLERN: Yeah, I get that, thank you.

CHANCE KLASEK: So, so it's, so it's a little bit of investment, not, not just, you know, the ability of the phone, like you might think of originally, so.

von GILLERN: OK. So-- and then back to my question of Senator Brewer. The-- what-- I'm trying to get to the motivation here. Are we, are we trying to-- we're trying-- obviously, the motivation appears to be providing add-- additional healthcare options for people in rural areas and making sure that they're well cared for. But, but again, the-- what we're-- what the bill is addressing is reimbursement rates. So the, the scenario that you described is getting in the car, driving 100 miles, seeing three people and driving home is extremely inefficient. And there's really not a lot of motivation for a physician to do that. Very costly on a per-patient basis versus telehealth, where a physician might be able to see-- I don't-- you know, potentially on the cases, I don't-- I don't know what the number might be-- two, three, five patients per hour. I, I don't know. Much more efficient, no infrastructure, no building required, no clinic required. So I'm struggling to understand the, the cost/benefit of one versus-- I understand the social benefit. And certainly we want to motivate physicians to where people in rural areas get care. Again, I'm under-- I'm, I'm struggling to understand the increased cost or why the one costs as much as the other.

CHANCE KLASEK: Yeah. I know for, for us, you know, specifically, you know, we don't, we don't run a specific telehealth like unit where-- we already have all the infrastructure to see folks in our clinic, you know, so we've already got that cost. So any of this, like, additional equipment that I'm talking about, that's just added fixed cost, essentially. So-- and I guess in my mind, you know, if someone's getting a telehealth visit, you know, they're still seeing the provider. Well, I guess why aren't they paid the same as they're seeing them in-- face to face? I guess to me, it just makes sense that they'd be paid the same. But there might be some start-up shops, you know, that don't have to pay for a whole clinic or, you know, like the costs that a hospital might have, potentially. They, they could run into some, some, you know, cost savings from not having that clinic sitting there already.

von GILLERN: OK. Thank you.

SLAMA: Thank you, Senator von Gillern. Are there any additional questions? Senator Jacobson.

JACOBSON: I'd like to just follow up a little bit on, on Senator von Gillern's question, because it's a good one. But I would tell you that from my perspective, I look at this, again, from, from my constituents that live in the four counties north, in particular, and the fact that many of them, if they have to drive to North Platte, they're not-- they're going to say I'm not sick enough to go see a doctor. And so they're just not going to go and they're going to wait until they're chronically ill and then they're being brought in by an ambulance. And we want to avoid that. And at the same time, it's more than a social issue, because it seems to me, if done correctly, we could have equipment in those small villages that are set up to do BPs and everything else that maybe needs to be done. And then we've got to look at the fact that we've got doctors who have limited time. They're making rounds at hospitals, they're seeing other patients that are getting 100 percent reimbursement for. The end of the day, day comes, OK, do I want to stay a couple more hours and see patients through telehealth at half price or do I want to take that off and see full time, those that I'm getting full reimbursement for to do these that are telehealth? OK. I mean, human nature says you're going to go after the low hanging fruit. OK. Let's be honest. So, so with-- if, if we can increase efficiency and we can stop chronic problems from happening by dealing with them early, it seems that everybody wins. And that's probably where I'm looking at this. How-- what, what, what say you?

CHANCE KLASEK: Yeah, I-- yeah. I mean, I agree. I think we could all agree that, you know, telehealth is convenient. It's going to provide better access for care. It's how do we, I guess, incentivize the providers to want to, want to do it. Because if you're a provider, you know, there's still-- we're shifting to value and, and we've always heard that shifting to quality, but it's still a lot of what they get paid on is the volume. So they're going to want to see as many patients as they can. And right now, the way we have it set up in our clinics is, you know, if we've got a patient in a room, you just have to walk through the door and you can see the next patient. It's actually harder-- it takes them more time to go back to their office and boot up their iPad or whatever and see a patient. So can we at least pay them, you know, the same that they're getting paid to see those patients in the rooms? To incentivize it. Because for me, even-- you know, I'm going to put on my dad hat here for a little bit. I've got four kids and if one's sick, my wife has to get them all in the car and take them, you know, to the doctor, risk getting another one sick from picking up whatever is in the clinic and it's just so convenient to use the telehealth. So how can we, you know, I guess, incentivize those providers to want to do it more?

JACOBSON: If you're going to walk out the door and walk up to Mullen, you might want to put your coat and your mittens on before you leave.

CHANCE KLASEK: Yeah. Exactly.

SLAMA: Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you, Mr. Klasek.

CHANCE KLASEK: Thank you.

SLAMA: Good afternoon.

STEVE KERSCHKE: Good afternoon. My name is Steve Kerschke, S-t-e-v-e K-e-r-s-c-h-k-e. I'm here to testify on behalf of Quality Living, Incorporated here in Omaha. We have long been a leader in rehab and residential services for individuals with brain and spinal cord injuries, so very complex care needs for these individuals. In 2018, we added telerehab services to our continuum. And so I think it's a little bit different than the physician services that we've been talking about up to this point. We provide physical therapy, occupational therapy, speech therapy and psychology services to over 150 individuals each year and that's across the country, including Nebraska. So I'd like to present testimony in support of LB256, and specifically, from the perspective of a virtual only provider. So we don't have a brick and mortar clinic and so all of the individuals that we serve are virtual. And I think that's a, that's an interesting perspective because, to some of the other questions, we're not able to recoup other costs by in-person visits and all of our visits are one on one. And so we can't actually see more people and increase the volume, given our patient population and then given the philosophy that we take on. And so when reimbursement is completely different than what it is on in-person, it makes it pretty unsustainable for a virtual-only clinic. So I think it's a, it's a good differentiator. Today, I was going to highlight some of the key advantages of telehealth. We've talked a lot about them already around convenience, around access. Access, I will say, for us, is really important. So many of the individuals who do live rural or live in other parts of the country don't have access to the specialty expertise that QLI provides. So if someone with a brain injury or a spinal cord injury can't just go to an orthopedic clinic, they can't just go to a run-of-the-mill provider to get the care that they need and so telehealth provides them access to us to allow us to take care of them virtually. And so that's a really big piece of, of what we do. I suppose there's some question around quality and outcomes. Just to give you one example-- 25 percent of the individuals we've served have shown improvements on community reintegration. So for this population, that's a really big deal. In terms of costs and expense, I've already spoken about the fact that we can't make things up with volume, but it, it also costs us the same amount to pay the experts that we, that we serve. Generally, they have three-- at least 3 to 5 years of experience, at least in our clinic, if not more, to make sure that we're providing the care that we need. As well as in terms of other overhead, we obviously provide the technology. But, but our, our folks see individuals in the actual clinic. They don't have-- so we do have overhead costs in terms of brick and mortar. So, you know, telehealth services, obviously, have emerged as a long-term solution. And we applaud Senator Brewer for backing this bill. We recognize the value of telemedicine from a bit of a different perspective and we just appreciate the opportunity to speak on that today.

SLAMA: Thank you, Mr. Kerschke. Are there any questions from the committee? Seeing none, thank you very much. All right. And proponents, as you've come up and testified, please feel free to cycle back so additional proponents can make their way up to the front. Good afternoon.

LESLIE EILAND: Good afternoon. Thank you, Chairperson Slama and members of the Banking, Commerce and Insurance Committee for holding this hearing and thank you to Senator Brewer for introducing LB256. My name is Dr. Leslie Eiland, L-e-s-l-i-e E-i-l-a-n-d, and I'm an endocrinologist originally from Columbus, Nebraska, and I'm currently medical director of Telehealth and Patient Experience at Nebraska

Medicine, a nonprofit integrated healthcare system, including two hospitals and nearly 70 specialty and primary healthcare centers in the Omaha area and throughout the state. Telehealth has had a transformational impact on improving access to healthcare and is now an essential part of healthcare delivery. At Nebraska Medicine, the percent of outpatient visits completed via telehealth has grown from less than 1 percent in 2019, to now 10.5 percent. The top five telehealth-to-home specialties include behavioral health, primary care, bariatrics, endocrinology and oncology. My patients are police officers, they're special education teachers and they are nurses from towns across the state like Hastings, Ogallala and Chadron, who are all so appreciative that they can do at least a portion of their regular visits with me at home instead of driving hours and taking an entire day off of work. Many of my patients who farm prefer in-person visits in the summer and winter, but then request telehealth visits during the spring and fall because they can't afford to take a day off during planting and harvest. There are a few misconceptions about telehealth that I would like to address. The first is that you cannot provide high quality healthcare via telehealth. I have published data showing that people with type one diabetes seen in our telehealth clinics actually had improved diabetes control when they switched to receiving care via telehealth. The latest guidelines from the American Diabetes Association and other medical associations like the American Society of Clinical Oncology now include telehealth as a viable option for care. Other misconceptions are that providing telehealth is easier, it saves time for the clinic and it costs less because there's less overhead. But if you want to do telehealth well, it often requires additional pre-visit work and coordination, especially if the patient is utilizing a local healthcare system that does not communicate with yours. And more often than not, our patients and providers are utilizing a hybrid model of care. They're using a mix of in-person and telehealth visits over a period of time. So for hospitals and clinicians like ours who perform both in-person and telehealth visits, the operating costs do not decrease. Provider time, clinical staff time and brick and mortar infrastructure are all still required. The final misconception about telehealth is that it will continue to expand without payment parity. The uncertainty of telehealth reimbursement makes it difficult to impossible to adequately plan and invest. If there's not payment parity for these services, health systems will not be able to invest the time, money and resources needed for these visits to be successful. Patient surveys consistently indicate they want telehealth as a continued option for care, and there's now high quality evidence to support its use in a wide variety of specialties. In closing, I ask the committee to support LB256 and I am pleased to submit 16 letters of support from my Nebraska Medicine colleagues across a wide range of specialties. Thank you.

SLAMA: Thank you, Dr. Eiland. Are there any questions from the committee? Seeing none, thank you very much. Good afternoon.

SHELLY ASPLIN: Good afternoon, everyone. My name is Shelly Asplin, S-h-e-l-l-y A-s-p-l-i-n. Today I am here representing the Nebraska Academy of Nutrition and Dietetics as their nutrition service payment specialist. In July of 2022, we were given notice by one carrier that reimbursement for telehealth services would be cut in half, effective immediately. Despite our best efforts, we could not get any responses from our provider representatives. In November of 2022, my fellow Nebraska registered dietitian nutritionists and I met virtually with a local insurance company to discuss their rationale for a 50 percent decrease in telehealth reimbursement rate for services. After this discussion, we provided information to show that the cost of telehealth is not less than the cost of in-person healthcare. We also provided specific examples of clients who are at risk not to receive our services due to the drastic cut in telehealth reimbursement. The local insurance company responded back that they would continue to monitor the data and would contact us to discuss access if the need arose. In simple words, no action was planned. Medical nutrition therapy is the practice of nutrition care services as part of the treatment or management of a disease or medical condition such as cancer, heart disease, celiac disease, diabetes, chronic kidney disease, eating disorders, gastrointestinal issues, unintentional weight loss and more. Here are some examples of real Nebraskans who benefit from medical nutrition therapy via telehealth services. A patient in Columbus with a bladder condition who is 105 miles from the dietitian's office, distance and work schedule promote [SIC] drive time. A patient with fructose intolerance in college and 30 miles from the dietitians office, class and athletic schedules prohibit drive time. A patient in Lincoln with chronic kidney disease undergoing cancer treatment with a compromised immune system and at risk for falls, a patient who is a stay at home mom not able to find childcare to attend appointments and requires weekly visits due to her health condition, an elderly patient in Omaha with diabetes who no longer owns a car and has a limited income for transportation. A patient in McCook, discharged from an inpatient eating disorders treatment facility, needs weekly sessions and there are no qualified providers in her area. These are real Nebraska patients who will be negatively affected if this bill doesn't pass. Nebraskans deserve to have access to medical nutrition therapy and other health professionals via telehealth to meet their healthcare needs. Thank you for considering LB256. I'd be happy to answer any questions.

SLAMA: Thank you, Ms. Asplin. Are there any questions from the committee? Seeing none, thank you very much. Good afternoon.

KRISTEN BLUM: Good afternoon. Good afternoon. Chairperson Slama and members of the Banking, Commerce and Insurance Committee. My name is Kristen Blum, spelled K-r-i-s-t-e-n B-l-u-m. I'm the division director for Virtual Health Services for CHI Health. Thank you for the opportunity to express my support for LB256, which is an important step in ensuring patient access to medical care, particularly in rural Nebraska through telehealth. Telehealth is an important care delivery strategy, which is here to stay after being greatly expanded during COVID-19. Through that experience, our healthcare system was challenged with how to maintain access to healthcare, minimize the potential for disease exposure and conserve finite staff and personal protective equipment. We leveraged existing telehealth infrastructure to rapidly grow virtual visits from well under 500 visits monthly in January and February, 2020, to between 15,000 and 19,000 in April and May, 2020. Today, virtual visit volume has normalized to around 45 [SIC] visit month-- visits monthly, which is substantially higher still than pre-pandemic levels. LB256 is important because telehealth allows us to maintain: one, access to care, particularly in rural communities that struggle to recruit and retain physicians, especially medical specialties; two, stretch our staffing resources and support workforce well-being, allowing practitioners to provide outreach statewide while minimizing travel and burnout; and three, improve patient experience, including reducing the need to transfer patients outside their home community or drive long distances to access care that can be delivered virtually. The following patient story illustrates how telehealth facilitates necessary access for medical care. A rural Nebraska patient was able to avoid a six-hour round trip visit for a consultation for recurrent infections resulting from a spinal cord injury. The trip would have been costly and painful. She was able to obtain a prescription to treat the infection after a virtual consultation. I would be remiss if I did not mention that the past Legislature, of which some of you served, codified parity for behavioral services delivered virtually. For reference, telehealth behavioral visits constituted about 10 percent of total behavioral health outpatient visits before the pandemic, skyrocketed throughout the pandemic and have now leveled off around 30 percent of total visits. Additionally, the rate of no show or canceled appointments for behavioral health, which is traditionally quite high, has been cut in half via telehealth. While the reimbursement we receive for these visits is often well below the visit charges, requiring parity in reimbursement allows us to recoup at least a portion of our costs, so thank you for passing that legislation. I'm hopeful we can build on that progress by placing telehealth visits on equal footing with traditional clinic and hospital care without compromising care quality. We've always believed strongly that telehealth is elemental to the future of affordable and accessible healthcare, especially in rural areas of our state. Thank you to Senator Brewer for introducing the bill and thank you to the Health and Human Services Committee [SIC] for your interest in this issue. LB256 is yet another complement in a comprehensive menu of strategies to increase access to high-quality, affordable healthcare and address healthcare workforce and financial challenges. I'd be happy to answer any questions.

SLAMA: Thank you, Ms. Blum. Are there any questions from the committee? Seeing none, thank you. Good afternoon.

ANNETTE DUBAS: Good afternoon, Chairperson Slama and members of the Banking, Commerce and Insurance Committee. My name is Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s, and I'm the executive director for the Nebraska Association of Behavioral Health Organizations. The Nebraska Association of Behavioral Health Organizations, or NABHO, represents 52 organizations statewide that include community behavioral health providers, hospitals, regional behavioral health authorities and consumers. We work to raise awareness and build alliances that support access to behavioral healthcare for everyone across our state. And we are here today to support LB256 and thank Senator Brewer for his attention to this issue. Behavioral health providers have embraced the use of telehealth has been mentioned by other testifiers as a means to deliver care for their clients. I would say prior to COVID, the use of telehealth was recognized as an effective method of delivering services, but not widely used. Then, as one of our members stated, when COVID protocols were implemented, our field moved ten years in two weeks. They found many ways to be innovative and make sure their clients experienced minimal disruption in their care. The emergency regulations implemented allowed them to provide these services and use various remote and virtual options, including the telephone. Providers had to take a crash course in how to use these platforms, acclimate themselves to a new delivery system and in turn, educate and support their clients to help them access the needed technology. One of the misconceptions when telehealth services ramped up was that it would be less costly system of care than in-person visits, therefore could have reduced rates. This simply is not true. The main change with telehealth is, is simply how patients and their providers engage. The cost of providing services remain virtually the same. You're still paying for the professional and their time, you're still paying for, for the overhead associated with buildings, etcetera. You're, you're looking at the expenses related to the technology and making sure that technology is HIPAA compliant, the EHR, all of those things remain relatively the same. So if you take a side-by-side look at costs associated with in-person versus virtual, I don't know that you'll see a, a whole lot of difference. In general, rates paid for behavioral health services still struggle to be on par with physical health services. So any attempt to pay a lesser rate would further exacerbate below par financial support for these services. Almost every service sector in our state identify behavioral health needs as their number one or two area of concern. With one in five Nebraskans needing behavioral healthcare and 88 of our 93 counties identified as behavioral health workforce shortage areas, we should be looking at ways to enhance support for telehealth services. L.B. 256 will ensure there is no disincentive to virtually see patients all across our state, but especially in the rural and frontier areas. So again, we thank Senator Brewer and we respectfully request the committee to advance LB256 to General File.

SLAMA: Thank you, Senator Dubas. Are there any questions from the committee? Senator Dungan.

DUNGAN: Thank you, Chair Slama, and thank you for being here today. I know we've a lot of other testifiers so I won't ask too many questions, but I wanted to start by thanking you for the work that you do and all the other behavioral health folk out there. I think-- it's important to note and I think a lot of us know this, but I just want to say it out loud, that during the pandemic, behavioral health services were vital and I think the behavioral health services being able to be utilized via telehealth actually saved lives. And the fact that people survived things they might not have survived otherwise without behavioral health services during the pandemic was incredibly important. I know providers who do behavioral health services both in-person and via telehealth, zoom, phone and the work they do with that I know, is very difficult. My question for you is one of the things that Dr. Eiland had talked about previously, are some of these misconceptions regarding telehealth. One of them was that you can't provide effective and quality physical healthcare via telehealth and then she, she cited some data regarding diabetes and how they've proven that the telehealth can work. In your experience in working with behavioral health, has there also been tangible information demonstrating that behavioral health done via telehealth can be just as effective?

ANNETTE DUBAS: I do not have specific, but I can tell you yes. In fact, you know, managed care-- our members work very closely with managed care and they'll tell you by far and away, behavioral health embraced and uses telehealth and that it is effective. The no-show rates, as was mentioned, have gone down. It has leveled out. It's, it's probably a combined in-person versus telehealth. But, you know, for some people dealing with anxiety, depression, difficulty getting out in public, telehealth services fit what they need very well. So without a doubt, telehealth has benefited those who are in need of behavioral health services.

DUNGAN: And I also know when it comes to a lot of behavioral health issues and that's a broad umbrella, I know, but in, in general, urgency and, and quickness of getting care can be, can be vital when it comes to a lot of behavioral health problems. Is it fair to say that telehealth is an added benefit in giving that direct care as quickly as possible to folks who need that immediately?

ANNETTE DUBAS: I would say so, at least in the very-- the opportunity to get in and get an assessment and have those things done so then you can be connected with the care you need down the road.

DUNGAN: Thank you and I, I appreciate the work you've done on this. Thank you.

SLAMA: Thank you, Senator Dungan. Additional questions from the committee? Seeing none, thank you very much, Senator. Good afternoon.

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AMY HARSHMAN: Good afternoon, Chairman Slama and members of Banking, Insurance and Commerce. Thank you for having me speak today. My name is Amy Harshman, A-m-y H-a-r-s-h-m-a-n. I am a registered dietitian/nutritionist with a private practice in Lincoln. I provide medical nutrition therapy to patients statewide. My practice emphasis is on chronic kidney disease. This disease impacts 316,000 Nebraskans. Annual national Medicare spending for chronic kidney disease seats $120 billion, accounting for 34 percent of total Medicare fee-for-service spending. Nutrition is a frontline intervention for kidney disease. This is well-established in the research. Results from a retrospective cohort study revealed that individuals who did not receive medical nutrition therapy were three times more likely to require dialysis. It costs $87,000 per patient per year for dialysis. At a fraction of the cost, medical nutrition therapy is approximately $800 to $1,500 per patient per year. Only 10 percent of patients receive medical nutrition therapy prior to initiating dialysis. Access to care is limited for a variety of reasons. With decreased reimbursement for telehealth, it further limited access, as many other proponents have stated today. While I do offer in-office sessions, much of my work is done via telehealth. Within the Omaha metro and Lincoln area, there are only 17 dietitians, myself included, in private practice, who accept insurance. We have a lot of dietitians in this community because we have UNL that has a dietetics program. However, many dietitians are intimidated by dealing with insurance, so we have a very limited number who actually accept insurance. I am one of few who specialize in kidney nutrition. I have spent many years becoming a specialist learning this trade. I used to work in dialysis. In my experience, patients living in central and western Nebraska struggle to find a kidney dietitian. This is a scary diagnosis. These individuals are scrambling for guidance on how to preserve kidney function and stay off dialysis. The Legislature has a compelling interest in preserving access to care and setting coverage standards for Nebraskans. On behalf of my practice and patients, I urge advancement of LB256. In closing, I share an experience from a patient who received telehealthcare with me. The diagnosis of chronic kidney disease came as a shock to her. She was told to prepare for dialysis since her excess weight disqualified her for transplant. No lifestyle or diet advice was offered by her physician, so she found me on the Internet. She took every recommendation I gave her in our visits and she implemented it. Her bloodwork showed increased kidney function from 20 percent to 45 percent within three months. She is now motivated to maintain a healthy lifestyle and dialysis is no longer in her future. Thank you for your time. I'd be happy to answer questions.

SLAMA: Thank you, Ms. Harshman. Are there any questions from the committee? Seeing none, thank you very much. Good afternoon.

JULIA KEOWN: Good afternoon. My name is Julia Keown, J-u-l-i-a K-e-o-w-n. I'm a registered nurse representing the Nebraska Nurses Association. I am also in District 26, thank you for your service, Senator Dungan. The Nebraska Nurses Association represents the more than 30,000 registered nurses in the state of Nebraska. The NNA supports LB256, a bill that will expand access to healthcare for Nebraskans. Telehealth removes barriers for patients, increases access to specialists who might be quite far away from the patient, we heard earlier, you know, several hundred miles away, sometimes-- increases patient adherence to care plans and improves patient outcomes in chronic conditions, which we talked about earlier. I think it was Senator Jacobson, where you have patients who are staying at home and not wanting to go in, not wanting to go in, not wanting to go in and then they get incredibly ill, go into the hospital and you either end up getting shipped out to an ICU, which is incredibly expensive, sometimes you end up passing. But if we can hold that off, we can keep you at home, we can get you on telehealth, we can prevent that chronic condition from becoming a disability and then from having that patient being on Medicaid potentially for the rest of their lives, which ends up being a drain on taxpayers. Right. So, this is a financially sound decision to implement this bill. Ensuring parity for telehealth insurance coverage will increase healthcare access for rural populations with limited medical providers, those with disabilities and busy working families. The NNA urges you to support LB256 to facilitate all Nebraskans having access to critical healthcare. And just as, you know, to kind of editorialize this, I've actually seen telehealth in action and used it both as a registered nurse while we were on the COVID ICU in the very beginning. When things were, were pretty dicey and, and the patients were incredibly ill, it was so wonderful to be able to get access to those specialists very quickly. It's really cool. The things, the devices that we used, it was a tablet and it actually had a-- like, an electronic stethoscope. So these are things-- you can actually do a, a fairly good assessment on telehealth. It's not just talking to a person. Right. And I've also used telehealth as a mother of a disabled child. So from both aspects, I very much support this bill.

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SLAMA: Thank you very much. Ms. Keown. Are there any questions? Senator Jacobson.

JACOBSON: I took a little bit of a pause, so I'm back, but I, I do have a question for you with regard to-- I, I look at, I look at this whole program as the beginning of something that could be much, much bigger.

JULIA KEOWN: Absolutely.

JACOBSON: And as I continue to look at District 42 and I look at that remote area and I look at, at Senator Brewer in his district and I keep thinking about in Mullen, Nebraska--

JULIA KEOWN: Yeah.

JACOBSON: --and Hooker County, we lost the only nursing home facility in that town--

JULIA KEOWN: That's a problem.

JACOBSON: --during the pandemic.

JULIA KEOWN: Um-hum.

JACOBSON: It's not the last of the nursing homes we're going to lose, OK.

JULIA KEOWN: No, it's not.

JACOBSON: And I believe that the problem in the closure of nursing homes, just like the challenges and the healthcare providers across the state, in-- including the hospitals, is the fact that we need more providers--

JULIA KEOWN: Yes.

JACOBSON: --we need to get reimbursements that make sense, we've got to have a place to go for those patients who are chronically ill and need long-term care, someplace other than in the facilities that we have. And oh, by the way, we're doing that for free. And I also believe that if we want to allow people to stay in their hometowns and get the nursing home facilities to work again, because they've really been challenged-- and by the way, hospitals aren't able to release patients back to nursing homes because they're not taking new patients.

JULIA KEOWN: There, there are none. Yeah.

JACOBSON: So-- and part of that's because of providers. So it seems to me that when you start looking at regulation, this is another big piece of the component. And my guess my view is, is as we continue to look at regulation of nursing homes, at what point can we use that component of telehealth to supplant being a full time RN on staff 24/7 in these remote areas, which would allow for better care than these patients who had to leave the nursing homes, go into private homes where you have none of that available. So what's your view? Do you believe that that's something that's attainable over time if we can develop this further?

JULIA KEOWN: That's a fantastic question and you could certainly implement some sort of program where you have certified nursing assistance to-- that are on the floor in those rural medical facilities, the acute care facilities or long-term acute care, rather. And you could maybe have a telehealth RN come in. You would need someone to give medications and things like that, so you would want like, an LPN, at least, on that floor. But that is a, a license that is significantly easier and faster to obtain than a full bachelor-prepared RN. And so that would be a very good way of doing that. I believe someone from Omaha said they have facilities where they don't necessarily have that brick and mortar provider in office. You know, if you have an emergency or something like that, you can get that provider on the telehealth and they give you kind of a diagnosis. Do we need to ship this person out? Can we keep them in-house? Can we deal with this in-house? Everything that you're saying is exactly what we are seeing in the hospitals. We are not able to get patients who are medically stabilized that are in our big acute care hospital systems, we're not able to get them to where they need to be and the hospital systems are getting backed up and backed up and backed up. We can't get anybody discharged. This will help.

JACOBSON: Well, and, and for what it's worth, I'm not anti-insurance companies either. Far from it. I understand they're a for-profit business, too.

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JULIA KEOWN: Sure.

JACOBSON: And there are going to be premiums that have to be paid and other payments--

JULIA KEOWN: Yep.

JACOBSON: --are going to have to come to keep that industry in place, as well. So we're all in this together--

JULIA KEOWN: We are.

JACOBSON: --but it still seems to me, we've got to get ahead of the problems or they're going to get worse and this is going to be a bad outcome if we don't do the steps-- take the steps today to move in the right direction. So, again, I appreciate your testimony today.

JULIA KEOWN: Yes. Thank you.

SLAMA: Thank you, Senator Jacobson. Are there any additional questions from the committee? Seeing none, thank you very much.

KORBY GILBERTSON: Good afternoon, Chairman Slama--

SLAMA: Good afternoon.

KORBY GILBERTSON: --and members of the Committee. For the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n, appearing today as a registered lobbyist on behalf of Boys Town National Research Hospital. And what's getting passed around to you is a letter from Patrick Connell, who had hoped to be here today, but he was unable to. I'm not going to repeat a lot of what you've already heard because you've heard it several times now, but I would encourage all of you and especially those who weren't here last year when we are dealing with ARPA funding and some of the different funds that got spent on telehealth and looking at specifically behavioral health, but, but also behavioral health that could also provide other services. And if you are at all interested in listening to or learning more about some of the exciting programs that are going on across the state, I would be happy to get you in touch with the right people. Because it's very encouraging to see what can be done instead of having to transfer people from far out west to Lincoln and Omaha. They can now get the care that they need in their home. So with that, I would take any questions.

SLAMA: Thank you, Ms. Gilbertson. Are there any questions from the committee? Seeing none, thank you very much.

KORBY GILBERTSON: Thank you.

SLAMA: Good afternoon.

JOHN TRAPP: Good afternoon. I will also abbreviate my comments as well. Chair Slama and members of the committee, my name is Dr. John Trapp, J-o-h-n T-r-a-p-p. I currently serve as the Chief Medical Officer at Bryan Health and I am the President-elect of the Nebraska Medical Association. I'm test-- testifying on behalf of the Nebraska Medical Association in support of LB256. I've also distributed a letter of support for the Nebraska Child Health and Education Alliance and am testifying in support of the Alliance, as well. Just to let you know, I'm a pulmonary critical care physician. During the pandemic, we provided critical care services to a number of hospitals and locations across the state of Nebraska. This includes North Platte, Scottsbluff, Columbus, Grand Island, Hastings. By providing critical care services, we're able to keep complex patients in their hospitals and minimize their need to transfer to larger hospitals in Lincoln and Omaha. The value for the hospital is they keep those patients there, they get those services, they have those expertise services in their community. The advantage for the patient and their family, they stay in their hometown. Their families can visit them on a regular basis. Telemedicine is about access, access to specialists across the board, as well as primary care services. You heard about tele-strokes, so that can be happen very, very quickly across the state. It helps patients to minimize travel. During the recent snowstorms in Grand Island, we were able to still see patients, we switched them from in-person to telemedicine visits seamlessly. As far as cost: some questions raised-- do we save money on cost? For us in our clinics, it's a 1 to 1 transition, so we go back and forth seamlessly. I see a patient in the office, see another patient in the office, next one is telemedicine. I see that one virtually on my computer, which is already up and running. Same time, same assessment and it requires my staff also to do similar work in assessing their vital signs, etcetera, when they can. With respect to cost, I think we should be concerned that not providing this parity in reimbursement will continue to result in proliferation of nationwide services that are already rapidly expanding to fill this gap. Patient demand for telehealth services is not going away. These national telehealth companies are, perhaps, able to better absorb lower reimbursement rates because if they equip an out-of-state provider with a computer, it's much less than establishing in-state clinic offering combined in-person and telehealth services. Telehealth, utilizing the patient's existing provider, allows us to evaluate and manage the patients in-person or virtually to provide high quality care and meets the patients' needs where they are, based on their specific needs. High-quality care delivered timely, ultimately lowers costs for the patient, which should be the aim of any healthcare policy change. Tele-- telehealth should not be viewed by policy-- policymakers or insurers as lesser or a novelty service, but rather as a complementary tool in our toolbox that allows providers to meet the needs of every patient. The Nebraska Medical Association urges your support for LB256. Thank you and I'm happy to answer questions.

SLAMA: Thank you, Dr. Trapp. Are there any questions from the committee? Senator von Gillern.

von GILLERN: Thank you, Dr. Trapp. I think you hit on something that I've been trying to drill into and I finally heard it. And the difference between-- I think the experience I had with telehealth was I was not trying to get a hold of my doctor about a chronic condition that I'd been, you know, maybe something that had been ongoing or somebody that-- and needed to be in my state. I'm envisioning-- and then this is going to be a horrible metaphor, so forgive me-- almost a, a, a, a bank of computer monitors with physicians sitting at them, taking international calls, you know, and, and, and, and giving care for, you know, people that have sore throats or need a script or whatever, whatever that happens to be. So it-- it's, it's helping me to understand the difference between people who need to access the Nebraska physician versus someone needing to access just a physician for a particular short-term need. Is that-- am I drawing a good conclusion here?

JOHN TRAPP: I think you are. I mean, the value of, of having both in-person and telemedicine visits is-- if I see a person on telemedicine and say, I need to see you here. There, there's pertinent things in an exam I can't pick up on through telemedicine. I can then schedule them for an in-person visit or in-person testing and have further discussions.

von GILLERN: OK.

JOHN TRAPP: So it's--

von GILLERN: Obviously, if that individual that I contacted via telemedicine is in a different state or a different country, that's-- that isn't going to happen.

JOHN TRAPP: Right. They're going to provide a consultation and say, you need to go call-- talk to your primary care provider and get referred to that specialty physician, which means they may need to travel or set up a secondary telemedicine visit with an in-state provider. I think the values, if we can keep them in state, there's true value for that.

von GILLERN: Thank you.

***LACEY SMITH:** This is an important change to preserve the existence of telehealth options. I utilize telehealth weekly because of being immunocompromised and an ambulatory wheelchair user.

SLAMA: Thank you, Senator von Gillern. Additional committee, committee questions? Seeing none, thank you, Dr. Trapp. Additional proponent testimony for LB256? Seeing none, we will now open it up for opposition testimony for LB256. Good afternoon, again.

JEREMIAH BLAKE: Good afternoon again, Chairwoman Slama and members of the committee. Again, my name is Jeremiah Blake, spelled J-e-r-e-m-i-a-h B-l-a-k-e. I'm the government affairs associate and registered lobbyist for Blue Cross and Blue Shield of Nebraska and I'm testifying in opposition to LB256. Forgive me, I'm going to speed read because 3 minutes is not very much time, but you have a copy of my full testimony. Blue Cross is a member-owned mutual health insurance company that has been serving Nebraskans for nearly 85 years. We are not a publicly traded company beholden to shareholders. Our mission has always been to provide members with healthcare coverage at an affordable price. As healthcare costs continue to skyrocket, it's more important than ever that we advocate on behalf of our members. The shutdown caused by the onset of COVID-19 pandemic prevented patients and doctors from meeting in person. To overcome this challenge, we expanded the list of services available via telehealth from about 25 to more than 250. We also temporarily reimbursed a telehealth visit the same as we would for an office visit. As a society, we are in a very different place today than we were three years ago and the shutdown that prevented patients from meeting with their healthcare providers is over. However, the pandemic demonstrated that telehealth is a viable treatment option for many types of care. For this reason, Blue Cross has decided to continue to pay for telehealth services for the expanded list of the 250-plus services that we implemented in 2020. This provides our members with more options to access healthcare services, especially in rural areas of the state. However, we have also decided to return to the pre-pandemic reimbursement levels for most telehealth services for a number of important reasons. First, for medical services, a telehealth visit is not the same as an office visit. The most important information a medical professional can glean from a visit is documenting patient history, taking vital signs and performing a physical examination. With a telehealth visit, it is possible to obtain the patient's medical history, but is more challenging for the healthcare professional to measure vital signs and conduct a thorough physical exam. Second, mandating payment parity creates an incentive for providers to build new business models based on telehealth, which increases utilization and member costs. Instead, provider reimbursement for telehealth services should incentivize value-based reimbursement models that emphasize patient outcomes instead of volume. Third, many of the services delivered by telehealth are subject to a member deductible under most health plans. While Blue Cross negotiates reimbursement rates with providers, the patient is often responsible for the cost of the visit until they meet their annual deductible. In the near term, this bill would have a greater impact on Nebraska families who pay out of pocket for a telehealth visit. And finally, this bill would intervene in the contract negotiations between two private entities, with the government placing its thumb on the scale in favor of one party over the other. We generally oppose these types of bills that seek to interfere in our right to contract with providers. The one silver lining of the COVID-19 pandemic is that it has increased access to telehealth services, but we oppose LB256 because it creates an incentive for overutilization. And with that, I hear my alarm and I will be happy to answer any questions you have.

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SLAMA: You're the first one of the day. Thank you, Mr. Blake. There has to be a first. Are there any questions from the committee? Yes, Senator Dungan.

DUNGAN: Thank you, Chair Slama, and thank you, Mr. Blake, for being here. Just a couple of questions. And again, I know there's other people that are here. One of the things that you mentioned in your testimony was that while slightly more challenging to obtain certain things during a doctor's visit, like vitals and patient history, it's not impossible. And so, it seems to me that there are still-- there is still the possibility for these telehealth visits to obtain the same information as you have in the doctor's office. Is that generally true?

JEREMIAH BLAKE: Sure. Yeah. I wouldn't disagree with that.

DUNGAN: And one of the things you talked about, too, is a concern about overutilization.

JEREMIAH BLAKE: Yes.

DUNGAN: You were obviously here for the other testimony--

JEREMIAH BLAKE: Yes.

DUNGAN: --you heard. Do you share the concern that if we don't in some way, shape or form protect the telehealth reimbursement rates by implementing this legislation, that we're going to see a diminishment or a diminishing in telehealth? Because it sounds like right now, with rates not being on par, without there being this parity, there's this concern that telehealth is going to diminish over time. And I think one thing we can all agree on, is there are benefits to telehealth. You then talk about that in your, your testimony and I think the concern that, that I have is that if we don't do something to protect the reimbursement rates, we're not going to see that offer at all. So--

JEREMIAH BLAKE: Yeah.

DUNGAN: --I, I guess how do you square a concern about overutilization with the evidence-backed information that we're already seeing a decrease in the amount of telehealth available, given the fact that reimbursement rates are going below what they would be if they were in an office?

JEREMIAH BLAKE: Yeah, So I think you can address that challenge by, again, getting to the issue of value-based reimbursement. All right. So I think the previous testifier mentioned that you do a telehealth visit, you do an evaluation, you determine that additional evaluations are needed, additional testing, a strep test, whatever case that may be. So then you get into the issue, OK, did the telehealth visit take the place of the in-person visit or is it in addition to the telehealth visit? So that's when you get into that additional utilization question and additional cost. But if you get into a situation where you're, where you're reimbursing providers based on the quality of care provided, that is patient outcomes, you take all that issue off the table. The provider and, well, the provider and the pair have an incentive to make sure that that patient is getting the care they need at the right time. And you're less worried about the volume of telehealth services or the volume of inpatient-- or excuse me, in-person visits and you just pay for outcomes. So that's how you address that issue.

DUNGAN: OK. So as of right now, Blue Cross Blue Shield still supports the notion of telehealth. You're just trying to figure out--

JEREMIAH BLAKE: Absolutely.

DUNGAN: --the right way to reimburse it.

JEREMIAH BLAKE: Absolutely. Again, we are not rolling back the services that are covered. What we're not talking about today is what is covered under telehealth. What we're talking about is the reimbursement rate for telehealth services.

DUNGAN: Thank you.

SLAMA: Thank you, Senator Dungan. Additional committee questions? Seeing none, thank you, Mr. Blake.

JEREMIAH BLAKE: Thank you.

SLAMA: Good afternoon, again.

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ROBERT BELL: Good afternoon, Chairwoman Slama, and members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell, last name is spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation. The Nebraska Insurance Federation is the state trade organization represent-- representing the insurance industry in Nebraska and just to point out that we represent Blue Cross Blue Shield of Nebraska, UnitedHealth Group, Aetna, Medica, Nebraska Total Care and Cigna, all whom provide health insurance in Nebraska and our health insurance committee there. I'm here today to testify in opposition to LB256. You've already heard that telehealth is an important tool in the healthcare system. It allows doctors to provide quick and easy access to patients whenever the doctor-- wherever the doctor and the patient is located-- if they're licensed in Nebraska, of course, that doctor-- and provided that they have access to high-speed Internet. Insurers have recognized the importance of telehealth, particularly during the pandemic, when a doctor seeing a person-- in person-- doctor seeing a patient in-person was difficult and they had increased the level-- insurers had increased the level of telehealth reimbursement to match the rates for in-person visits. However, the pandemic is now over and some insure-- insurers have adjusted their practices to reflect that fact that telehealth visits are different than in-person visits. Other insurers have not, creating diversity and competition in the marketplace. And I'm going to step out from my prepared remarks and just say a couple of things. Nothing in reimbursement rates is going to change, I mean, the provision of telehealth. If, if a healthcare provider still would like to provide telehealth, have a lower reimbursement rate, they're more than welcome to do so. There's-- I mean, there's the argument that if you lower the rate, then there are, perhaps, going to be less services provided that are be incentive for that doctor or that-- a medical provider to bring a patient into-- to the office so that they can get reimbursed at a higher rate. And, and I guess that's true, right? I mean, if that medical professional makes that decision, they need to see that person so that they can get paid more, they're more than welcome to, to make that patient come in if that's what they believe is the best, you know, decision. The concern that I have, particularly when it's related to rural health, and I've heard Senator Jacobson and Senator Brewer, obviously, and many of the testifiers talk about that. You know, there was an article in the Omaha World-Herald this fall about a new facility being built in Omaha and part of their payment plan was actually related to telehealth. It

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was, it was providers spreading out that health to rural Nebraska from a west Omaha office. And though they may not be in Chicago, Senator von Gillern, they could be in Omaha. And they could be in Chicago if they're licensed to practice medicine in Nebraska, right, and they follow all the rules and regulations related to that. And the question that I guess I would throw to this committee is the-- if, if parity is required, is, is there an incentive for a doctor to move to-- oh, my three, three minutes are up already? So I guess I will, I guess I will stop my comments there. So.

SLAMA: OK.

ROBERT BELL: We don't-- we oppose LB256, so.

SLAMA: Well, thank you, Mr. Bell, and I appreciate the point that you were getting there-- to there. And I apologize for the light and the alarm. Lack of parity--

ROBERT BELL: Yes.

SLAMA: --I guess.

ROBERT BELL: Light parity.

SLAMA: But something I am concerned about with this side of parity is our inability right now to get healthcare professionals to rural Nebraska. And it seems your argument is kind of in line with this. If we have 100 percent parity, you're also incentivizing these centers to open up in urban areas to provide that healthcare access via telemedicine to these rural underserved areas. However, when telemedicine dictates, when that appointment dictates that that person see a doctor in person, you may just disincentivize that doctor in Omaha who wants to serve rural populations from actually living out there. Do you, do you share in that concern?

ROBERT BELL: Yeah, I do. I mean, I, I think there-- if, if a doctor or other medical provider wanted to, to live in Omaha, you know, if there's payment parity and they can sit in their office and do a Zoom visit with a-- of a patient and yeah, there may be that disincentive. And I know, growing up in rural Nebraska myself, that the doctors were vital members and other medical professionals were vital number of members of our, of our community, right, and highly respected and you know-- and so it would be, it would be a shame if there's an unintended consequence to a passage of a piece of legislation like this. I will also share, from a standpoint of a, of an Omaha resident, during pandemic, I had a similar experience as Senator von Gillern where I had to have-- both my wife and I had an attack of shingles during COVID, during the lockdown. And so she got to do a telehealth visit and I did not. I had to go in in-person. And, you know, I got saw by a doctor and a, and a nurse and a PA and they had-- they did tests on me and everything along those lines. And so I would expect --I would hope that the cost that I had to pay out of pocket was less for my wife's visit than it was for, for my, you know, hour and a half at the doctor's office versus her 20 minute visit over-- and I don't think it was Zoom, but it was whatever the, the equivalent was. So anyway. So.

SLAMA: Thank you, Mr. Bell. Additional committee questions? Senator Dungan.

DUNGAN: Thank you, Chair Slama, and thank you, Mr. Bell, for being here. I'll try not to rehash the same questions I asked Mr. Blake.

ROBERT BELL: Sure.

DUNGAN: Going off what you were just talking about, though, with Chair Slama and this potential for an unintended consequence, I guess-- I understand that concern. One thing we've talked about with a number of people is trying to make sure that we increase the amount of medical providers, retirement homes, things like that, in rural Nebraska.

ROBERT BELL: Absolutely. Yeah.

DUNGAN: I guess, I don't necessarily see the direct causal effect between these two things. I understand there could be a potential correlative effect if you allow people in Omaha to do telehealth out west. But I think there's other reasons people maybe aren't necessarily moving out there and it's kind of a holistic thing.

ROBERT BELL: Could be.

DUNGAN: Did, did we see a stark decrease in the amount of medical providers in central and rural Nebraska with the increase of telehealth or is it just a concern moving forward?

ROBERT BELL: I think it's a concern for the future. And so, I certainly don't have any stats from here in the last couple of years, since--

DUNGAN: That's, that's fair.

ROBERT BELL: --the, the pandemic happened. I would just say, too, this isn't actually parity. This is-- we could pay more for telehealth if we so chose under the provisions of LB256, you know, so you could actually get into a case where you're paying more for a telehealth visit than an in-person visit. And maybe we then come back here and there would be another bill to make it actual parity.

DUNGAN: Would you be supportive of this bill if we modified the language to say parity?

ROBERT BELL: No, I would not.

DUNGAN: OK. Just curious.

ROBERT BELL: Got to be clear.

DUNGAN: I might as well ask now, right. The other question I have, I guess, too, is going back to one of the things you've said here, I think you might have answered it. Nope. No more questions. Thank you.

SLAMA: Thank you, Senator Dungan.

ROBERT BELL: You're welcome.

SLAMA: Senator Jacobson.

JACOBSON: Well, I have to ask, I guess what I look at in this is-- I asked a previous testifier, is my concern is rural Nebraska.

ROBERT BELL: Sure.

JACOBSON: How do we create incentives for existing providers to expand telehealth out into remote regions and do it by only paying them half of what they would otherwise get on in-person or what's basically less than their cost? There's no financial incentive on the part of providers like Great Plains Health and other hospitals to go out in these remote areas when they're already being stacked test-- taxed in terms of their existing providers. I'm concerned about delivering healthcare to everyone in my district. And I'm also wanting to get nursing homes, the ones that are open to stay open and I'm wanting to be able to return the opening of those that closed. And so, I guess the question is, we can decide whether or not it should be 100 cents on the dollar or 50 cents. I think we know that, that at 50 percent rate, we're too low. I don't know whether there is some, some compromise in there or not, but I'm just concerned that we have the technology, we have the ability to serve more people, we have the ability to do it more efficiently, but I can also tell you that there are costs involved. And I would also tell you that, that we don't have the number of physicians. They've got to become more efficient. It's hard to do it if you're going to be penalized to that point, in terms of getting 50 percent of your reimbursement. There's where my concerns lie. I understand insurance companies have to make a profit, too, and I understand that premiums will be impacted if you end up with the additional costs. And I understand there may be some differences between being able to do a diagnosis and actually doing, you know, care per se. And maybe those rates need to be tweaked. I don't know. I'm, I'm not a, I'm not an insurer, I'm not a care provider, I'm just a legislator. And I'm just trying to get to the best outcome for my constituents and to be able to make sure that we've got a healthy-- healthier state and this seems to be one thing that's standing in the way. So, I don't know whether there is a compromise in here somewhere or if the answer is whether you get 50 percent or 100 percent. Where are you guys at?

ROBERT BELL: OK. And I appreciate the question. I was waiting for a question.

JACOBSON: There is one. I know the NBA would tell you generally, I don't have a question at the end, but I've learned to put one in here.

ROBERT BELL: So, you know-- I mean, so if the case is that UnitedHealth Group is providing, you know, telehealth parity and Aetna is and Blue Cross Blue Shield is not, there, there could be an argument that the, the market itself would, would take care of it. Right. And that, you know, one thing, you know, the more of these mandates that we get over and over and over, whether they're at the federal government or at the state level, is that I mean, the health insurance looks like. Right. There's, there's no difference between the policies. And so you have all of these insurers out there that are really, they are competing over very little. Right. Maybe maybe their networks, You know-- and maybe that's just part of that, that question. But yeah, I mean, we're always open to, to have discussions and compromise. I think a couple of years ago-- and, and just another point, I'm glad you asked me a question because I just want to know that mental health parity, telehealth parity is already on the books, right, in Nebraska. Just to clarify, [INAUDIBLE]. If you did not know that, that is, that's already passed-- over our objections, but it did pass. But that was part of the, that was part of the compromise as well, because there was an actual telehealth parity bill and then there was a mental health one. And we're like, OK. I mean, that makes sense. You know, if you're a psychiatrist sitting in an office, maybe there isn't a lot of difference between that visit on a Zoom and an in-person visit. But, you know, if it-- we're involving brick and mortar and things like that, it might be a little bit different. So.

JACOBSON: You're still one of my favorite insurance company lobbyists, so that's why I'm asking you this question.

ROBERT BELL: Well, we're few and far between. So-- I'm ahead, I'm ahead of the group. So.

SLAMA: Fair enough. Thank you, Senator Jacobson. Any additional committee questions? Seeing none, thank you, Mr. Bell.

ROBERT BELL: You're welcome.

SLAMA: Additional opponent testimony to LB256? Seeing none, is anybody here to testify in the neutral position on LB256?

JODI REESE: Good afternoon.

SLAMA: Good afternoon.

JODI REESE: My name is Jodi Reese. I'm an advanced practice registered nurse. Oh, sure. I'm actually here on another bill, but I'm sitting here listening and I just wanted to say, I think there's really no doubt the importance of telemedicine and that nurse practitioners have really done a great job of answering the call of telemedicine in Nebraska and all over the United States. One of the core values of a nurse practitioner is to go where the people are. And in my practice, I was working in elementary schools, homeless shelters and in palliative medicine. And I think my fear is I'm listening to this, is that this committee will be faced with a lot of questions regarding how we're going to answer the call to increasing nurses, increasing providers and how we're going to take care of our rural communities in Nebraska. And as you're being faced with those questions, I don't want telemedicine to replace in-person visits. That is a fear of mine, because there are a lot of times you cannot replace human connection. So that is just something I fear. I think telemedicine is really important, but I graduated from the University of Nebraska. We had an RV and we drove the RV to rural communities and we had a clinic and we saw people. And that was one clinic. We saw one at a time. So that's not the answer to a lot of the population out of the western part of the state, but I just want to be really clear that we can't forget the importance of that human connection.

SLAMA: Thank you very much, Ms. Reese. Could you do me a favor and say and spell your name for the record?

JODI REESE: I'm so sorry.

SLAMA: No worries.

JODI REESE: J-o-d-i R-e-e-s-e.

SLAMA: Wonderful. Thank you. Additional questions from the committee? Seeing none, thank you very much. All right. Additional neutral testimony on LB256? Seeing none, Senator Brewer, you're welcome to close. And as you come up, for the record, there are 26 proponent letters for LB256 and one letter in the neutral position. Senator Brewer to close.

BREWER: All right, thank you. Just kind of some situation awareness, which is why I'm a little confused on the neutral testimony here. All of the instances where I came in and the either demonstrated or I did the telehealth, it was a nurse practitioner who drew blood, took my temperature, did blood pressure, so you have that human connection when you come in. The problem is we don't have doctors. The nurse practitioners are becoming the doctors and we don't have enough of them. And that's why, Senator Dungan, you don't say very much, but when you do, it's pretty profound. You know, if, if you de-incentivize telehealth, you're going to get less of it. So I mean, isn't that essentially what you said? It was very profound, so I'd say yes.

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DUNGAN: I've never been accused of not saying much before. So.

BREWER: But if we-- if we could have a perfect world, you would see a doctor every time. But unfortunately, the district like Senator Slama has, as Senator, Senator Jacobson has-- so many of us are out in the middle of nowhere. We have limited options and those options are going to get less and less over time because as these towns continue to slowly, you know, numerically get smaller, there's less opportunities for doctors to come to these communities. Now, we've been fortunate in that they have, they have done a lot of things that have helped in, in our, our telecom as far as fiber optic cable in places like Mullen. So their expansion, their overhead is getting the initial set up because they need some pretty high-speed equipment and they need the ability to have the proper firewalls to secure your, your data, but once they have that, their ability to serve the public now goes up tenfold if they're not having to travel. So again, I don't want to make it a rural versus urban thing, but to a degree it is because, you know, if you're in Omaha, man, there's a lot of great options. Your, your concern about finding a good doctor is not an issue. You go places out there, you're lucky to find a doctor of any flavor. So with that, I'll be glad to take any questions.

SLAMA: Thank you, Senator Brewer. Are there any questions from the committee? Seeing none, thank you very much.

BREWER: Thank you.

SLAMA: This brings to a close the hear-- our hearing on LB256. We'll briefly pause to reset the room for the next hearing on Senator Holdcroft's LB730. And just as with the last hearing, if you're planning to be a proponent on LB730, please come to the front few rows. And then as you testify, please cycle out to the back so that more proponents can come forward. Let's everybody take their seats so we can get rolling on LB730, please. Please take your seats. All right. Senator Holdcroft, welcome to the Banking Committee. You're welcome to open on LB730.

HOLDCROFT: Good afternoon, Chairwoman Slama and members of the Banking, Commerce and Insurance Committee. For the record, my name is Senator Rick Holdcroft, spelled R-i-c-k H-o-l-d-c-r-o-f-t, and I represent Legislative District 36, which includes western and southern Sarpy County. Today I am introducing LB730 and AM312, the Fair Access to Financial Services Act. As amended, LB730 would maintain a level playing field for Nebraskans wanting to access financial products and services. The bill simply requires state-chartered banks and credit unions to disclose if they are utilizing standards or guidelines based on subjective measures such as environmental, social and governance, governance criteria or political and ideological factors. For insurance companies, the bill expands prohibited and unfair practices to include criteria based solely upon consideration, again, of-- [RECORDER MALFUNCTION] --or governance standards. I'm just going to call it ESG from now on. By, by requiring full and adequate disclosure in regard to financial products and services, as well as prohibiting unfair insurance practices, the citizens of Nebraska and businesses will be free to operate according to their individual best interests. The bill requires banks and credit unions to disclose if they are using what could be perceived as discriminatory metrics. However, these institutions are still permitted to use objective factors such as ESG or political and ideological factors if they so choose, so long as they, as the standards and guidelines are provided to the appropriate state regulatory agency upon request. And denial of services based on subjective standards is clearly disclosed to the consumer. For insurance companies, the bill gives important tools to the Nebraska Department of Insurance to ensure that companies base their decisions on sound underwriting principles. This is a measured free market approach. Additionally, Nebraska is one of at least 15 states across the country considering similar legislation. The use of subjective criteria by banks, credit unions and insurance providers is an issue that could have a widespread impact on businesses and individuals across the country. This is why states are working quickly to address growing concerns about this practice. This bill will shed light on any institutions that use subjective measures such as ESG or political and ideological factors as a part of their criteria for providing a financial product or service. This will equip Nebraskans with the necessary information to make choices that best align with their interests. Action to secure individual rights is the fundamental and proper role of government. I believe it is incumbent upon us as Legislatures to ensure that if a bank, credit union or insurance provider is doing business in Nebraska, the institution must offer products and services in a nondiscriminatory manner, and any denial of a financial product or service must be documented if it does not meet the quantitative, impartial and risk-based financial standards developed by the institution in advance. Chairwoman Slama and members of the Banking, Commerce and Insurance Committee, thank you for your consideration of LB730 and AM312. I believe this bill is an important protective measure to Nebraska consumers. I would appreciate it if you would vote to send this bill to the full Legislature for debate. I would be happy to answer any questions you might have. I may also defer to some questions to the invited testifiers.

SLAMA: Thank you very much, Senator Holdcroft. Are there any questions from the committee? Senator Dungan.

DUNGAN: Thank you, Chair Slama. Thank you, Senator Holdcroft, for bringing this bill. I don't think we've seen you before this committee yet, so.

HOLDCROFT: No first time.

DUNGAN: One thing that I think is important that a lot of people don't know is the 1964 Civil Rights Act doesn't pertain to banks, right. And so when we're looking at financial institutions and lending institutions, I think there's been an ongoing concern that there's not been fairness in that area. And so I appreciate the desire that you have here to sort of argue for fair access in financial services, because I think that's something that oftentimes has been deprived. One of the concerns I have just about the language in the bill and I'm looking over the amendment here to make sure I see that as well. You've talked a little bit about free market approach and trying to provide freedom for individuals in the system. I guess one concern that I have is by removing, I guess what we can say are more subjective factors that, let's say a banker has when giving a loan. Or to put it a different way, when you remove that sort of autonomy of the banker to make certain decisions about the individual, the business, anything like that, it seems to me that you're actually hamstringing or there's a concern that we could be hamstringing financial institutions in being able to make those decisions that they are experts in that field. Can you speak to that concern a little bit more on whether or not you think that can be addressed with any additional language in this? Or do you share that concern that we're not allowing bankers the autonomy or lending institutions that autonomy in making those decisions that they might know best?

HOLDCROFT: Yes, and I share that concern. And it's been expressed to me by a number of folks who say I have arranged to have some bankers and credit credit unions come speak in opposition to the bill for that exact purpose, but I am willing to, to, to work with them for some language that makes them feel comfortable about their process for providing financial services. But we're kind of looking for some transparency here so that we can, we can see when there are some unfair practices and that we address those when they occur.

DUNGAN: Thank you. I appreciate that. And one other thing is, when I was looking this up, the Fair Access to Financial Services Act, I just did a little brief research. I know there's been, like you said, a number of other states that have introduced legislation similar to this. There's also been federal legislation proposed called the Fair Access to Financial Services Act that incorporates parts of this and I know some of the language is different. Would you be open to an amendment in this as well to include some of that language that the federal one has that involves not discriminating based on race, color, sex, sexual orientation, things like that?

HOLDCROFT: Yes, we'd be open to that. We purposely stayed away from federal guidelines. We just wanted to address, you know, state chartered banks and state credit unions and, and insurance companies, so. But if that makes sense, then I'd be happy to have that as an amendment.

DUNGAN: And we could talk about that more as time moves forward, but I appreciate that. Thank you.

SLAMA: Thank you, Senator Dungan. Senator Jacobson.

JACOBSON: Thank you, Chair Slama and Senator Holdcroft. I'm going to, I'm going to be easy on him. I'm just going to ask some simple questions, just kind of work on through the crowd, but.

HOLDCROFT: And I have people behind me who would be happy to.

JACOBSON: I knew you would. I knew you would. (LAUGHTER) So I guess, first of all, to Senator Dungan's point, all of those things are covered already in banking law. And so the discrimination is already a big part of what we're already doing and the fact that you cannot do it. I know we heard testimony earlier about the insurance industry being the most regulated industry. I would challenge that perhaps that banking has very much there and of course, we need to get the medical community, I'm going to give them their due as well. But I do have a couple of questions. You made two comments here in your open that you're focused on state chartered banks and credit unions. So are you saying that national banks would, would not be subject to this and federal chartered credit unions would not be subject to this?

HOLDCROFT: That's my understanding that we cannot, as a state Legislature, regulate the national banks, no. I do have some folks who can probably expound on that.

JACOBSON: And then the other question I'd have would be in the bill on line, on page 3, line 4. The paragraph starts on line 2 and says deny any person the financial service the financial institution offers, except to the extent justified by such person's documented failure to demonstrate quantitative, impartial and risk-based financial standards established in advance by the financial institution.

HOLDCROFT: Yes, that's, that's kind of the gist of the bill, is that the lending, the organization is providing the financial services would, would list out transparent, quantitative. This is what we have as the standards for providing our services.

JACOBSON: I would just offer and again, as a question, I mean, I, you've, I'm sure you're aware of the, of the five C's of credit what you learn in lending 101. And that's character, collateral, capacity, and capital, and conditions. And conditions really speaks to economic conditions. I would also offer a 6th C, concentrations. One of the things banks have learned over the years is you can get concentrations in industries, maybe in hospitality or other areas, and so you back off in lending in that particular area until your concentrations come back into balance. And so I'm concerned from the standpoint that we have small business owners of banks across the state who I think will find through the questioning, have not discriminated in any way with ESG and yet are going to be saddled with a whole bunch of new disclosures that they're going to have to comply with when we've got all these other disclosures on top of us already. And I think you'll also find that what's happening nationally is that those large institutions who have chosen to get involved in ESG, there have been plenty of banks willing to take that business if they want to walk away from it, including many of us in Nebraska that have been more than happy to take that business. So, so I'm just raising the question in terms of my concern lies in the area of, I think we're already there and we're maybe trying to fix a problem that doesn't exist. But, but we can talk about that later. I appreciate your openness to, to debate, to discuss this further with all the players in the industry and, and so thank you for, for that piece.

HOLDCROFT: Yeah. Thank you.

SLAMA: Thank you, Senator Jacobsen. Additional questions from the committee? Seeing none. Thank you, Senator Holdcroft. Will you stick around to close?

HOLDCROFT: I will.

SLAMA: Outstanding. We'll now open it up to proponent testimony for LB730. Good afternoon.

BETTE GRANDE: Good afternoon, Chairman Slama and members of the Banking, Commerce and Insurance Committee. My name is Bette Grande, B-e-t-t-e G-r-a-n-d-e. I am with the policy, I'm the policy director of the ProFamily Legislative Network and have been asked to testify by Senator Holdcroft on LB730 and the AM312 and I'm going to focus on that amendment. Thank you for allowing me to speak today. The ESG and social credit movement has, is big and growing. Today we are focused on this bill and about the people of Nebraska. I am providing supplemental testimony you should be receiving via email, if you have not received that, and also a detailed source document to the committee, which is a very deeper, deeper dive that I didn't not want to get into a lot of that right now. This bill deals with financial services and is broken down into three sections, state chartered banks, credit unions and insurance. The independent panel of bankers say they are not using ESG credit, criteria and that is wonderful. That is what big banks are doing, the federal charter banks, putting our local banks between a rock and a hard place because they have that regulatory and one or more corresponding banking relationships with the federal banks that are forcing these, this agenda. But the one group left out of this debate is still the consumer, your constituents. The intent of this bill is disclosure. Sunshine. If a bank is fundamentally changing its way of operating, changing how it evaluates its scores and scores consumers, the consumer deserves to know that the rules have changed. And until the question of federal preemption is addressed, state legislators can only address the state chartered banks. The bank is not, this bill is not a regulatory burden because if the bank is cooperative, is operating as it generally includes, as was mentioned, the five C's in its traditional credit scoring, this bill will require nothing of the bank. But if the bank then chooses to pick up and work off of the definitions and add in ESG and other criterias, then it will be required to disclose to its consumers. If it is no longer, it is no longer business as usual and we need that transparency. Credit unions face a different, different issue. Many are specific members. Criteria have already been disclosed to the public. Here again, though, the National Credit Union Association, who regulates them, was starting to require climate risk assessments on their loans. This was a direct threat to the protection agriculture. After pushing back from the states, they have held that book off on their, that rule in their books, but it still is there. This bill would help prevent that from coming about. The third section deals with the insurance aspect. The energy industry, agriculture, firearms and others have faced problems with the insurance.

SLAMA: Thank you. Just your last thoughts to wrap it up.

BETTE GRANDE: Just that the insurance industry is regulated different than banking and that, in that they don't have that same type of national. So there are currently, if we include Nebraska, 12 states that are working off this exact language that is in the amendment so that that can be a national criteria that would be established.

SLAMA: Thank you. Ms. Grande. I appreciate that. I just have one question for you, then we'll check the other committee members. You mentioned that we've got 12 or so states that are considering this exact language. Have any states passed this language yet?

BETTE GRANDE: No states have passed it. Most are in the beginning hearing phases, just like we are here.

SLAMA: Fair enough. Thank you very much. Additional committee questions? Senator Jacobson.

JACOBSON: I wish you were that simple, but I am reading the bill, not your testimony. And your, this bill and your testimony seem to be in conflict. What I'm reading, as I read this as a banker, is I've got a tremendous amount of new financial disclosures that I'm going to have to make, including a disclosure at the end here that says disclosure of any person denied a financial service. The specific data, information criteria and standards used to support such denial. Such disclosure shall be in bold 14-point font. All right. Now we offer today what we call an adverse action notice to borrowers who are denied. This looks like a brand new disclosure form that we're going to have to create, that we're going to have to put together and it looks to me like they're looking for data, specific data that would have to go into that denial. We're small businesses. This seems to be so overly intrusive. End of the business. I thought that in Nebraska that we accepted capitalism and free markets and that we were trying to cut down on government overreach and I see this bill filled with government overreach to state chartered banks only and allowing national banks, but not that there are any, there's any problem with the national banks, but we're zeroing in on the state chartered banks, providing a significant new disclosure requirement. Along with that, if you're over $500 million required to do an audit from a third party auditor, I'll guarantee it. They're going to charge me more money to come in and do an audit. The state banking department's already indicated they're going to have to hire an additional person. And guess what? When we get, when we get examined, we reimburse the state for the additional hourly fees to do those examinations. This is a big impact on community banks who are not doing anything wrong. And that's my frustration with this bill. I mean, and I made, correct me if I'm wrong, but how do you see this different than that?

BETTE GRANDE: Madam Chair, and members of the committee, I understand your frustration, and I think that's what has caused a lot of these types of bills to come about in that, in the capitalism portion, we're losing the ability to have capitalism because of the federal banks and their corresponding relationships with you guys, they are going to be putting on that pressure that is taking away your ability to do business the way you would want. This is hopefully going to preempt that. Now, as far as in, if we look just at the amendment portion and we talk about and I thank you for bringing up that 14.4 portion and, and that disclosure portion only takes place if you are getting into that ESG portion and have left your 5 or C, 5 or 6 C's.

JACOBSON: I don't read the bill that way.

BETTE GRANDE: OK. Let's work on the amendments to, to have it read that way--

JACOBSON: Thank you.

BETTE GRANDE: --because that's the direction it was meant to. It was not meant as a harm to, to the state level banks. It is meant more as that protection that, hey, we aren't doing this, we're not going to deal with that. But if you're being all of a sudden forced by these federals, I think that that disclosure will help in trying to address that preemption, that federal preemption that we can't get our hands around right now.

JACOBSON: So let me, let me understand your just last point here. So you're saying that the big, that the correspondent banks we work with, which, by the way, most of them are regional banks that don't have these policies. But so you're telling me that if we work with a correspondent bank and we're doing business with them, you want to punish the community banks so that you can get to the big banks.

BETTE GRANDE: Madam Chair and members of the committee, I would hope this doesn't come out as that punishment and is, as you are saying, that it appears that it's going to be, I hope we can work that language that only if you are forced into the ESG will you have to worry about any change in the disclosure.

JACOBSON: Here's the possible amendment.

SLAMA: Hold, hold on, Senator Jacobson. Ms. Grande, just to make your life easier in Nebraska, you don't have to acknowledge the members of the committee or they, for me. I love the extra acknowledgment, but you can just feel free to answer the question.

BETTE GRANDE: Thank you, Madam Chair. I'm not used to directly talking before you.

SLAMA: No worries.

BETTE GRANDE: Thank you.

JACOBSON: Last, last question for you. All I'm saying is, is that I think when we listen to the opponent testimony, we're going to find that we're fighting a problem that does not exist in community banks and state chartered banks and straight through our credit unions that, and state chartered insurance companies of this type targets. And I think what you're going to find is we're, we're attacking a problem that doesn't exist today. And so if you want an amendment and a bank can certify that we're not implying, employing any ESG standards to our loan criteria or our deposit criteria and you want to add other acronyms to that, fine, we certify that, we're done. That would be the amendment that I'd be really happy to see. And we can, we can stop all this other stuff that's in this bill that is overly intrusive, in my judgment. So a thought would be that need to look in there.

BETTE GRANDE: And I like that direction. And I, and what's interesting is in another state, when we had suggested that you guys can have that in there would be this list, these, these banks are not doing this,or, but, well, you're blacklisting us. And then they got into the whole flip side of that is we don't want to be on any kind of list. So if there's a way we can work that to make that work, I agree. I think that's a good start.

JACOBSON: We're in Nebraska, The Good Life.

BETTE GRANDE: Thank you.

SLAMA: All right. Thank you, Senator Jacobson. Senator Ballard.

BALLARD: Thank you. Chair Slama. On page 2, 22, can you help me understand who defines those, who defines environmental, political, ideological? And then how are they enforced?

BETTE GRANDE: That is, that's, that's a nice question. I think what happens is it shows up. Those ideological, ideological and political factors show up when the denial comes out and you have to try to justify that to the consumer.

BALLARD: OK. So, the, the denial comes out through the Department of Banking?

BETTE GRANDE: No, you, you as the banker.

BALLARD: I see. OK. And then what recourse does the potential borrower have? Do they take it to the State Patrol? They take it to the department?

BETTE GRANDE: I, I, you're fine, Senator Ballard. We removed those types of penalties in just leaving it for Sunshine between the banker and the the, the customer. We didn't want to have this onus to the bankers, so we left that out. So we would hope that when that type of thing comes out and the consumer now knows that, that's where that listing it out, comes in. You don't have to declare anything until you start doing that. So if you're not using political reasons in your loans, you don't have to worry about that at all. But if you start to deny loans because you don't care for somebody's political stance, you need to start disclosing that. So that's what the disclosure piece is for. Now, if we move it strictly to what the other senator has asked for, we may lose that ability. So I think that's where we have to understand where disclosure and where is just the claiming we don't. And if they're claiming they don't, well, then you don't have to worry about this because you've claimed you don't do it.

BALLARD: OK. And I appreciate that, but so what if they're, so what if there is no political ideology that justifies the denial of a loan? How does the potential borrower get to that point? Or how does, I'm just, I'm a little confused on how you go from a denial if you have a poor credit score. And you say and I say, you denied my loan because of different political ideologies in you, what is my recourse? What is my.

BETTE GRANDE: I'm not sure what the normal recourse to that is right now--

BALLARD: OK.

BETTE GRANDE: --for Nebraska, but I would, I would assume your banking commissioner would have the last call on that.

BALLARD: OK. Thank you.

SLAMA: Thank you. Senator Ballard, Additional committee questions? I have one just before you go. I'm so sorry, you know, I promised one question. And this may be a question better answered by some of the experts that may follow you, but do we have and I'm talking about our community banks or state chartered banks that would be impacted by this bill, do we have any example of these community banks practicing ESG discrimination in their loaning practices?

BETTE GRANDE: I do not believe in Nebraska you do.

SLAMA: OK.

BETTE GRANDE: There are concerns in my community bank or at home that I have multiple accounts in. He has called me and said he had just come home from a DC meeting with some of his corresponding banking, banks and he was told by them, this federal bank, that by the end of the year he would have to implement ESG credit scoring on the loans or they would leave him with, they would not do corresponding banking with him.

SLAMA: And I'm sorry, what state is this in?

BETTE GRANDE: North Dakota.

SLAMA: OK. Thank you very much. I appreciate it.

BETTE GRANDE: You're welcome.

SLAMA: Additional committee questions? Seeing none, thank you.

BETTE GRANDE: Thank you.

SLAMA: All right. Additional proponent testimony. Good afternoon.

CATHERINE MORRIS: Good afternoon. Good afternoon, Chairman Slama and members of the Banking, Commerce and Insurance Committee. My name is Catherine Morris, C-a-t-h-e-r-i-n-e M-o-r-r-i-s. I am a cattle rancher from Cherry County, Nebraska, the largest county and the most, the largest beef producers in Nebraska. Beef, it's what, it's what's for dinner, a slogan long-endeared in the minds of Americans. The thoughts and smells of that big, juicy steak or that, well, hamburger cooking on the grill or at our favorite restaurant, that makes most Americans, especially Nebraskans' mouths begin to water. It's one of those pleasant-eating experiences most of us know well and usually is a meal we look forward to. But will it be in the near future? What happens if suddenly you're faced with, can I buy a steak this week or at all? Because I am now acutely aware that my credit card company is keeping track of my purchases, and these purchases are now a part of my credit score. Absurd, you're thinking. My steak, absurd. I wish it were. We are all suddenly being faced with the new reality that financial institutions and insurance companies have begun putting a new criteria into the way our credit scores are going to be managed. Not only will my habits of how I manage my finances and influence whether I can take out a car loan, increase my credit card purchases, or even qualify for a car loan or rent a house. I am now faced with the how well I manage my environmental and my social impact purchases through what is called stakeholder capitalism. That wonderful juicy steak, if I purchase it, will it take down my credit score? Yes, my credit score. Why? That's not how individual businesses have been evaluated for 150 years in America. You're right. But a new American financial system is emerging. That juicy steak under this new system is from a dirty industry. Yes, beef, a dirty industry. Yes, just like coal, oil and gas. What does that mean for ranchers like myself? It means that if I want to take out a loan with my local banker, the banker will be required to have me fill out a new set of disclosed, disclosures. I will need to answer questions on my carbon footprint, my greenhouse gas emissions. How is my equity in inclusion? Am I providing CRT training to all my employees? Am I conducting a dirty industry? If any of these puts me any more undefined on unstandardized, always evolving, subjective and non-legislative standards are answered on the low end of the scale, I will be denied access to finance, financial services and insurance coverage. Unless I can bring up those scores, I'm not going to be able to sell my Nebraska grown beef to anyone, anyone, anywhere. Since over 90 percent of ranchers are family owned and operated, how do you senators think that those ranchers, the first environmentalists, Nebraska ranchers, generations of families that have provided exceptional beef to not only to Nebraska families, but to America and abroad, are going to measure up underneath such criteria? LB730 and AM312 is going to fix all for this discriminatory and one-sided measuring apparatus. But it is a good start to begin to push back on this politically driven and ideological system being forced on us. LB730 and AM312 will help to level the playing field for individuals and businesses in Nebraska. Beef, it's what's for dinner. Senators, please, let's keep it that way. I ask that you support and advance LB730 and AM312 to the floor. Thank you for your consideration and your time.

SLAMA: Thank you, Ms. Morris, and thank you so much for making the drive all the way from Cherry County. I know everybody on the committee really appreciates it.

CATHERINE MORRIS: No, glad to.

SLAMA: Committee questions? Yes, Senator Jacobson.

JACOBSON: Thank you for being here. And, and yes, thank you for making the trip and thank you for being a rancher. I would, I would tell you that you raised a lot of questions, many of which this bill does not even begin to address. In fact, this bill really wouldn't fix any of the concerns that you've raised. I would tell you, however, that if community banks across Nebraska were no longer able to finance cattle feeding, hog feeding, poultry, any livestock feeding, they'd be out of business. They'd be out of business. We're on your team. We're on the same side you are. Adding to our costs is not going to make your life better. It seems to me, and perhaps you can point it out, but what in this bill do you see is going to fix the problem that you have raised today?

CATHERINE MORRIS: The way that it begins is, is to, is disclosing that there's going to be a problem and that there is going to be discriminatory problems with all of this because I'm going to be discriminatory. There's been discrimination based on how I am handling anything that I am doing underneath the feedlots, underneath my sale barn, underneath the packers. They're the ones that are going to be bringing this to us and if we do not have a third party auditor filling out all sorts of disclosures, proving our carbon footprint, proving our gas greenhouse gas emissions, we are going to be blackballed. If we can't do that and we, when already we have razor thin margins already for what we are trying to do, and we're going to have to hire a third party auditor to somehow come up with all these scientific figures, you know, to be able, to be able to sell our beef in order to, they're going to pick winners and losers. And there's going to be winners and there's going to be losers and unfortunately, the majority of us are going to be losers.

JACOBSON: I would suggest that if you took out the name rancher and inserted bank, we'd have the same argument

CATHERINE MORRIS: Possibly, but I think more.

JACOBSON: My point is, is that the banks aren't the problem. It's the regulators and it's potentially at a national level. And so I'm not sure why we want to punish the state chartered banks across the state and state chartered credit unions who aren't part of this problem and aren't asking for any of this information, and why we would, why you think we would turn down loans to ranchers when that's our lifeblood? I mean, I'm here to kind of assure you that, that we're in the business of making loans. We don't make any money if we don't make loans. We're firmly committed to that. And so I would just say, again, I appreciate, fully appreciate those who have concerns about ESG. I share those same concerns. My concern is this bill doesn't fix it.

CATHERINE MORRIS: The models are in Sri Lanka, the Netherlands and Ireland. That is where you need to look to and where all of those, those agricultural industries have suffered greatly. There is starvation and death going on in these countries where this has already been implemented. It's coming here, that they're already poised to begin to force us into this. So I would look at those as the model countries and look at all the basis.

JACOBSON: The base will be right there fighting with you.

CATHERINE MORRIS: I hope so.

JACOBSON: Thank you. Thank you for your testimony.

CATHERINE MORRIS: I hope so. Thank you.

SLAMA: Additional questions from the committee? Senator Ballard.

BALLARD: Thank you. Thank you, Chair. Thank you, Ms. Morris, for being here. It's good to see you again.

CATHERINE MORRIS: Yes, you too.

BALLARD: Can you give, give an example, national, international of one, I know there's a certain investment bank that has said that they will only invest in environmental issues. Can you kind of address what you've seen in your research? I know you've done extensive research on this issue.

CATHERINE MORRIS: Well, within stakeholder capitalism, you know, it's shareholders versus stakeholders. So such as, I guess ExxonMobil would be an example where the banks are selling them exactly what they can and cannot do. This board, when you, when you're looking at shareholders, it's normally the values are, you know, are based to what the, the shareholder will make. Within stakeholder capital, it broadens that to where now those who have no investment and those who have no shares in it now can suddenly have an input, they can boycott. And so the, the board now has to broaden its, its scope and it put its resources away from oil and gas to such like solar and wind and then which you have no investment, you know, for versus the shareholders, I'm sorry. And so then the company ends up losing value, you know, because of that. And so those who are, are invested in that. And it's the corporations, it's the, it's from there that's pushing it on down.

So then us below have to fall into all of that. And that's where for us, as in the ranching industry, it's going to be the packing plants. That's where the choke point is going to be and that's where these disclosures and all this are going to come in and the third party auditors are going to come in. It's not necessarily at the moment here. That's like they look at the models in these other countries and it's coming because they're already poising to do that. So, so for us as a rancher, we're looking at, we are not going to be able to sell if we do not come underneath all these disclosures and, and follow, follow through in that. So that's where there's not specifically yet where it's happening, it's just poising to happen and happening soon.

BALLARD: Thank you for being here. Thank you.

CATHERINE MORRIS: I hope I answered that.

BALLARD: You did. Thank you. Thank you.

SLAMA: Thank you, Senator Ballard. Senator Dungan.

DUNGAN: Thank you, Chair Slama, and again, thank you for coming all this way. I think some interesting points have been made already on the more banking regulatory side. Where I'm getting hung up and I want to ask you a similar question to what I was asking Senator Holdcroft, is this, this first portion where, where banks cannot deny any person a financial product or service except to the extent justified by such a person's documented failure to meet quantitative, impartial and risk-based financial standards established in advance by the bank. And so it seems to me like this, this bill has multiple components in it, right? One part of it is the ESG component we've been talking about wherein if they utilize those ESG standards, they have to disclose that for the Sunshine like we just talked about. But to me, that seems somewhat separate and apart from this first requirement that banks can no longer exercise any kind of subjectivity, those five C's or autonomy. I mean, you yourself are a rancher. Do you think that, hypothetically speaking, let's say somebody is getting started in farming or ranching and they go to a bank and they say, I really want to get started in this and here's my business plan. And I personally don't know all the work that goes into that, but they say to the bank, I need a loan for X amount of money. And the bank says, you know, based on our impartial quantitative risk-based standards, you don't meet the requirements for getting this loan. But as it currently is, maybe that bank says, I know you. You know, I did business with your parents. I did business, we did, we did business with their parents. We know your family. We know you're trustworthy. We're going to deviate from what we would normally do and we're going to take a chance on you. And so it seems to me that if we implement this stringent requirement that removes the autonomy in the subjectivity from the bankers, to a certain extent, we could run afoul of trying to support ranchers, farmers and other people like that who are trying to get off the ground. Do you think that's a concern of that first part as well, or do you think that that's not really an issue if we remove that autonomy or subjectivity?

CATHERINE MORRIS: Well, the subjectivity isn't, no longer will have the traditional. That's, that's the problem. And so like Bette pointed out, it's, it's a Sunshine. So it gives us, once we know why they've denied us, then we have something we can say this is discriminatory because this is why they denied us, but right now they don't have to disclose that. So we, if they're using ESG criteria, they don't have to disclose for those reasons why they denied us. So at this point, then we will have something that we can actually take and say this, this is discriminatory or it's on an ideological front to us, which is under, not underneath traditional and it's not been legislated. So that's the governance part.

DUNGAN: And I think, and this is maybe where I'm getting, maybe I'm getting confused or maybe the law in the first and the second, the separate part seem a little bit confusing. So the first part says you cannot deny anybody services essentially unless they don't meet these quantitative, impartial, risk-based financial standards. So let's say, I'm just going to use these very basic things. Let's say I'm only going to give you a loan if your car is blue, right? And that's my thing that I said ahead of time. You come in and you say, My car's red.

CATHERINE MORRIS: Right.

DUNGAN: And I say, you didn't meet our impartial risk-based standards, whatever those are, right?

CATHERINE MORRIS: Right.

DUNGAN: And I deny you.

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

CATHERINE MORRIS: Right.

DUNGAN: At that point the latter part of the law's not triggered because I only have to disclose to you in bold 14-point font why I, why I said no to you if I use the ESG. So if I deny you based on my impartial risk-based standards, you don't receive any of that notice or Sunshine, correct?

CATHERINE MORRIS: Well, it's my understanding that that's what we are trying to, to put the light on, the Sunshine on is this ESG criteria--

DUNGAN: OK.

CATHERINE MORRIS: --so that we have something that tells us why underneath ESG are you denying us? Tell us why. And right now, that's not being done.

DUNGAN: OK. Thank you.

CATHERINE MORRIS: You're welcome.

SLAMA: Thank you. Senator Dungan. Additional committee questions? Seeing none, thank you very much, Ms. Morris.

CATHERINE MORRIS: Thank you.

SLAMA: Thank you so much. Good afternoon.

NEPHI COLE: Madam Chairwoman and members of the committee, my name is Nephi Cole, N-e-p-h-i C-o-l-e. I'm the director of government relations and state affairs for the National Shooting Sports Foundation, which is the Firearms Trade Association of America. So we represent the 9,000 companies, members manufacturers who manufacture, distribute, move, sell, anything that's ammunition-related, firearm-related, scopes, optics. Anything in that outdoor space. That's us. So we're Cabela's, we are SCHEELS, we're Beretta, we are quantity here in Nebraska. Those, that's our memberships, the professional side of the firearms world. So that's a little bit about who we are. I wanted to talk a little bit about this issue and why we understand it's a tricky issue. So first of all, we've seen a bill very similar to this passed in, in several states related to the firearms industry specifically. So Wyoming has a bill called the Financial Industry Nondiscrimination Act that only applies to state based, to state banks. And the same thing is true in the state of Georgia. We've also passed a number of these, seen some a number of these laws passed on a national scale, also have the same name, Financial Industry Nondiscrimination, but they're different bills because they tend to deal with contracting and disclosure and contracting. So if you had a discriminatory policy, you'd have to disclose that to the state if you sought to provide them a banking service as part of the contracting. So first, I would like to say, you know, this issue is a real issue. In 2013, there was a, an effort called Operation Choke Point. If you haven't heard about it, you should look it up, but Operation Choke Point was effort that was led by previous administration that put inappropriate pressure on the banking industry. And pushed them in a position that they never should have had to be in, which is regulators said, if you do not have policies that discriminate against a series of industries, one of them being the firearms industry, then you will be audited at a higher level. And so it put those financial institutions in the position of having to choose between spending more money on audits or making that up somehow, whether it be with higher rates, whether it be, or to simply cut services. And a number of our manufacturers were debanked at that time, very large manufacturers. And so we can provide those instances to you if you'd like. But that's not the only instance. In 2018 there was a national trend that, to also debank our industries for political reasons. Here's what I like about your bill, and I love the suggestion that you had. To us, the most important thing here is just disclosure. If you have discriminatory policies, we think you should disclose them. And that's really what we'd like to see, because the reality is the banks who are going to come up here and testify, they're not doing this. Your local banks aren't doing this, but there are national banks, roughly 50 percent of the national credit and lending market has policies that directly are discriminatory against my industry in particular. So we know it really happens. It's a, it's a real thing. Anything that you can do to just bring attention to this issue and, and, and, and let people know where they should look to bank, should probably locally. We appreciate that. So thank you for taking a look at this issue and if we can answer questions, I'm happy to.

SLAMA: Thank you, Mr. Cole. Are there any questions from the committee? Senator Jacobson.

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JACOBSON: I'm going to have two standard questions for all the testifiers. First question is, do you know of any Nebraska bank operating in Nebraska that has denied anybody involved in the manufacture, transportation, sale of firearms? Can you name any?

NEPHI COLE: Absolutely, absolutely not.

JACOBSON: All right and-- and secondly, what in this bill would stop the things that you're concerned about?

NEPHI COLE: We think that when banks see somebody putting their thumb on the opposite side of the scale, whether it be state banks or national banks, and they know that lawmakers care about it, the pressure, the reason banks are doing this, they don't want to be in this position. Banks did not ask to become the social police of all these things.

JACOBSON: Thank you.

NEPHI COLE: And so what this does is it allows states to put their thumb on the other side of that scale so that when banks go into boardrooms and they're making those decisions, they're going to have a loud group of advocates on this side saying, we want you to be prioritizing your lending, your practices based on ESG. Efforts by states like this are a way for states to put their thumb on the other side of that scale so that when those bankers go into the boardroom, they can say like, you know what, we're going to bank, we're bankers. We're going to make our decisions based on the traditional reasons, we're not going to do these other things.

JACOBSON: Well, help me with this, but it seems like we're putting the innocent people in prison and freeing the criminals.

NEPHI COLE: It's a, a, Madam, Madam Chairwoman, and I understand not just the committee, but thank you, sir. I, I don't know that I discount your concern because we've seen this in other states like Wyoming, where our local banker said, hey, look, why us? And the reality is, I think that the suggestion that you had, there's a huge amount of wisdom in this. If you don't have these policies just certified to the state immediately, right now, we don't have these policies. And I think it sets a great precedent, because then as you're seeking to do business with larger banks outside the state, which the state of Nebraska does, you can ask them the same question and demand the same answer and I think that's a good thing.

JACOBSON: I would just offer this to you. I am aware of the national efforts in ESG. And I set on the federal, on the board of the Federal Home Loan Bank in Topeka, and that's an agency and they're getting pressure. And I can assure you, as a board member, as a member direct from Nebraska, I am beating the drum loud and clear. There isn't a bank in Nebraska that isn't opposed to this kind of, these kinds of practices being forced upon them. We're already an advocate for not having that come, and yet we're getting bills like LB730 forced upon us and adding more regulation, more red tape, infringing on our ability to be a small business owner, and we've got the federal government, or in this case the state government, infringing upon our ability to do business, as we've been doing, when no one can demonstrate that we've done anything wrong. And we just want to use you guys as bait, so to speak. I mean, we're the, this just seems so fundamentally unfair to us. I just, I can't, I can't comprehend the rationale that we're using here to attack the problem. I think we're shooting, I think the gun is aimed in the wrong direction. We need to turn it from the banks to the regulators and to national. This testimony will be going on to the federal level, not at the state level.

NEPHI COLE: Madam Chairwoman, members of the committee, we absolutely understand and that's why we are working on the FIND Act in the national level with 90 co-sponsors there already. And, and there's a, totally understand your concerns. And they're, they're, they're, they're relevant.

JACOBSON: Thank you. Thanks for your testimony too.

SLAMA: Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much. Additional proponents for LB730. Good afternoon.

MARK WHITEHEAD: Thank you, Chairperson Slama, the rest of the committee. For the record, my name is Mark Whitehead, M-a-r-k W-h-i-t-e-h-e-a-d. I'm the owner of Whitehead Oil Company, and today I am giving testimony on behalf of the Nebraska Petroleum Marketers and Convenience Store Association, which represents marketers such as ourselves across the state of Nebraska. I am here for the realization that the liquid fuels industry does sometimes get targeted in a manner described here. We represent the last couple of links or the last link in the energy supply chain to the, to the consumer for energy over the road. And we get vilified quite often. And Senator Jacobson, you're quite a, it seems to be high profile on the federal level, but it, it, it's gone down in different states. Certainly, we all have seen many times over where it's gone down to many states on the ESG level and that's what we're concerned with on this. Bear something in mind, this relates to our industry. We do not create demand, we meet demand. And think about that for a moment. And, and that's the same way with just about any business if you think about. But the only reason that we exist is to meet the demand that's already out there and exists. When we build new locations today, we try to visualize what transportation energy is going to look like into the future. We try to prepare for that the best way we can. We do e-charging on new locations that we build. We are doing our best to allow for fuels of the future, which may include ethanol and higher levels of ethanol, so we're preparing for that. We don't know what the future is going to necessarily look like, but we're preparing for that. And as we see the different things from across the country, we are preparing for that the best way we can. And I guess that's, in part, the way I view this bill as well. I'd like to answer any kind of questions you might have.

SLAMA: Thank you very much, Mr. Wertick, is that how?

MARK WHITEHEAD: Whitehead.

SLAMA: Whitehead. I'm so sorry.

MARK WHITEHEAD: Whitehead. Well, just to make sure it never happens again. (LAUGHTER)

SLAMA: Yes, sir. I do my best. Any questions from the committee? Senator Jacobson.

JACOBSON: I promised two questions. What in this bill is going to prevent what you're concerned about from happening?

MARK WHITEHEAD: Well, I've heard your question several times over. And, and anticipating it the way I read this bill, it asks the banks to go by sound financial objective criteria in terms of determining the loan, in terms of determining the loan. To the extent that it does not, and if it follows that guidelines other than that, it doesn't prevent them from making the loan, but it does make sure that they disclose that. I can assure you I've got a, I've got an excellent banking relationship with my banker. And even with that, I have writer's cramp by the end of a loan process just getting through the forms we already have. I guess I do not see in here where there is a requirement for a tremendous amount of extra paperwork to the extent that something other than sound financial consideration is given in terms of the approval or disapproval process.

JACOBSON: Well, in my, of course, my second question is how have you been negatively impacted by it? And I know enough about Whitehead Oil companies know that you've probably got a line, a long line of, list of banks that are prepared to go, provide financing.

MARK WHITEHEAD: I hope so.

JACOBSON: Oh, you do, you do. You're too modest. I, I think, again, I'm just back to this same situation. You're exactly right. You got writers cramp now. All we're going to do is add more regulation, more government, government intrusion into banks who aren't doing anything wrong. State chartered banks, state chartered credit unions who are not employing these things, and yet we're being asked to step up to a different level and it just seems profoundly unfair and unnecessary. So that's why I'm curious with you testifying in a, in a, in a proponent position. How do you square that as a small business owner? Would you be looking for that same kind of scrutiny being added to your business for no reason? I mean, what if we decided that we want you to prove that you're not contaminating the groundwater with the tanks that are all isolated out there and ask you to do more testing? Would that be something you'd want to do voluntarily or have the state legislate that when we know that you've already got people coming in checking that already? I mean, would that seem fair to you?

MARK WHITEHEAD: We are already heavily regulated along those lines.

JACOBSON: I guessed right.

MARK WHITEHEAD: And we've got a high degree of scrutiny, both in terms of our day to day monitoring of the tanks and in the rest of that. Would I look for more intrusive measures, certainly not. But I think what exists out there today allows for accountability. And again, as I had indicated, the way I interpret it and we, I think we interpret it a little bit differently. It was done in the last testimony. This gives the banking industry a little bit of cover in terms of pressure from other customers that might have a social agenda and why are you doing this? Why are you doing that? And when in fact, you're just trying to, the banking industry is just trying to make objective decisions on their lending practices. And hopefully this would give a little bit of cover that this, we're bound to that just because you were bound to other fiscal responsibility in other areas of your, of your business.

JACOBSON: Let me ask you one more question and I'll let you go. You hire a lot of employees. If you hire someone who's in a protected class today and you decide that their work quality isn't up to par, do you just go through the normal process and terminate them or do you, because they're in a protected class, go through a lot of extra steps to make sure that you can document clearly that you've terminated them because of work quality.

MARK WHITEHEAD: How much time do you have?

JACOBSON: Well, I think your answer to that is yes, am I not?

MARK WHITEHEAD: Yes.

JACOBSON: All right. So now you come in and a bank has to document, disclose to any person denied a financial service the specific data, information criterion and standard used to support such denial. And you know what? How many chances do we have if this goes in the statute that we're going to get sued and have to defend frivolous claims? Because at the end of the day, banks are in the business of loaning money, so are credit unions. We're out there to loan money to help people grow. We don't just willy-nilly turn people down for a loan. We make money by making loans. So my concern is, this is the problem with stacking up what seems to be innocent kinds of disclosures is because you're going to spend most of your time in a courtroom or most of your time defending claims they've been unfairly denied as we continue to stack up the reasons that we can't deny someone from a loan. Last I knew, these are independent businesses and we're having the government come in and, and the state government in this case, tell us who we can and can't loan money to. I mean, it seems absurd. So I guess that's why I raise the question. It just, as innocent as it may seem, it's proving the negative that always gets difficult. But thank you for your testimony.

MARK WHITEHEAD: I had not looked at that in that, in that light before. Again, if it was based on the way I interpret this, if it was based on sound objective financial criteria in terms of the denial of, I did not see the red tape in there associated with that. You do and I guess that's a matter of open for interpretation.

JACOBSON: Thank you.

SLAMA: Thank you, Senator Jacobsen. Additional questions from the committee? Seeing none, thank you, Mr. Whitehead.

MARK WHITEHEAD: Thank you.

SLAMA: All right. Additional proponents. And if you're a proponent sitting in the back, please make your way up to the front row as we start thinning out our ranks up front. Good afternoon.

BRUCE RIEKER: Good afternoon. My name is Bruce Rieker, B-r-u-c-e R-i-e-k-e-r, and I'm the senior director of Legislative Affairs for Farm Bureau. In addition, in addition to Farm Bureau, I'm here on behalf of the Nebraska Corn Growers Association, Nebraska Soybean Association, the State Dairy Association, and the Pork Producers. I don't know whether I'm happy or sad that I'm late, but I missed some of the first part. I don't want to say to Senator Jacobson, any questions, (LAUGHTER) but too, OK. We are firmly in support of this and in some regards, just listening to the questions and the testimony that I've heard so far is the agricultural industry needs your help in fighting this, because the Securities and Exchange Commission tried to impose something on us, or on Fortune 500 companies not so long ago, requiring that every one of them that does business with anybody has to report their carbon intensity scores and things like that. Agriculture does business with all sorts of Fortune 500 companies, either with our inputs or our products. And so one way or another, if there's an onus that's being placed on an industry and probably even a target, it is the, is the people behind ESG trying to put us out of business, especially in the livestock market, which by the way, is the largest part of the ag industry in this state, and we're the third largest ag complex in the country. So this is a huge threat to agriculture. In some regards, I liken to at least what I've heard so far in the conversation is probably a little bit of the method to the madness behind a bill that Senator Slama loved so much and that was the right to repair. But here's the method to the madness there. We have to create pressure at every level to help fight this battle. And what we did in that issue is we had state legislation introduced to create pressure on the people at the federal level to do something. And not that I came prepared to say that that is the entire method behind this bill, we do support this bill, but this needs to be fought at a national level. We would prefer, it's not a state by state solution, but if this is what we have to do to create the burdens and the onus that's going to be put on agriculture, not just to producer. We have some of the largest ag co-ops in the world. We are an agricultural giant and this, part of this is aimed at us. And so we need your help and that's how we're trying, that's why we support it. We're proud that he brought the bill and I'm ready for the questions now.

SLAMA: All right. Thank you, Mr. Rieker.

BRUCE RIEKER: Rieker, yep.

SLAMA: Sorry.

BRUCE RIEKER: That's all right.

SLAMA: Questions from the committee? Senator Jacobson.

JACOBSON: Well, let me again ask, the banking industry needs agriculture's help. Agriculture is the biggest industry in Nebraska. Community banks that are impacted by this bill all are here because of agriculture. We have a vested interest in supporting agriculture, and we will continue to do that every step of the way. And the livestock industry, specifically the cattle industry, is the largest of that, of that industry. So we are clearly in support of the industry. But we've never, I've never found a time when somebody wanting to work with us and asking for our help would do it by asking us to do more disclosures that bring more regulation, more cost to our business that we're going to have to pass back to you. So I guess my question becomes, what in this bill helps your effort?

BRUCE RIEKER: It helps us, I would say, to get a commitment from the community bankers that they won't cave.

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JACOBSON: Well, how does this bill do that?

BRUCE RIEKER: Transparency.

JACOBSON: Well, we're already being transparent. We aren't doing it.

BRUCE RIEKER: Well, if you're not required to provide the criteria that is nonfinancial, then how do we know? That's like you said to another testifier, it's hard to prove a negative. For us, it's hard to prove a negative if there is no documentation that we were denied, our producers were denied a loan based upon the social makeup of our boards or things like that. So we, you know, this is a statement that's common meant, or stated in a hearing, you know, well, we'd be happy to work with you, but we have to find a way to make sure that this mission creep of ESG does not find its way into Nebraska's economy. And if there's ways to do that that aren't included in this bill, that's great. But, you know, we are pushing hard for this because it is a very serious issue facing not only Nebraska, but American agriculture, the production of food.

JACOBSON: So I have to ask my second question.

BRUCE RIEKER: You bet.

JACOBSON: So do you have any member or anyone you know of in the state of Nebraska who has been denied because of ESG?

BRUCE RIEKER: No, but our position of leadership is not to wait until the problem hit, but to take the preemptive strike to make sure it doesn't happen. A wise person once told me, asked me when's the best day to plant a tree, and I didn't know the answer. And he said 20 years ago, and then the second best is today. So that's why I would answer it that way.

JACOBSON: I got one, I got a third question for you.

BRUCE RIEKER: That's not fair, you said two. (LAUGHTER}

JACOBSON: Be at least two questions. I guess I'm trying to figure out what would be the motivation of state chartered banks and credit unions to impose this upon any of their borrowers voluntarily?

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BRUCE RIEKER: I don't know the banking business well enough to give you a real sound answer, but I would say that if you needed a secondary lender that imposes ESG standards, that for a community bank that needs that secondary lender to help them make a loan that they really want to, but they're going to have to invoke ESG standards. That's the one instance that comes to mind right now.

JACOBSON: So then bottom line is your borrower doesn't get funding either way.

BRUCE RIEKER: Could be.

JACOBSON: I mean, I'm again, I'm just trying to be practical here. I, I mean, we could look at all these what if scenarios. What if this, what if this, what if that. Why are we targeting an industry that is, isn't guilty of this has no motivation to be guilty.

BRUCE RIEKER: We are a target in an industry asking for help. That's it.

JACOBSON: Thank you.

BRUCE RIEKER: And if the bankers don't want to do it, I guess that's your answer too.

SLAMA: All right. Thank you, Senator Jacobson.

JACOBSON: Thank you.

SLAMA: Additional questions from the committee? Senator von Gillern.

von GILLERN: I want to ask this question in a little different way than I think has been asked already, because everything has been framed around the bank lending money. But in reality, your constituents are customers that have a choice on where to go.

BRUCE RIEKER: Right.

von GILLERN: So if the disclosures were made and one bank was participating in an ESG process and another was not, would that possibly drive your constituency to do business with one bank over another?

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BRUCE RIEKER: I would encourage them to do that.

von GILLERN: And would that be one of the great motivations of trying to get this done?

BRUCE RIEKER: Could be, yeah.

von GILLERN: OK.

BRUCE RIEKER: Yeah. There are options. I'm not, I'm not saying that there's one lender out there that we all have to go to. If, if it were up to me, I would tell our member to find a different bank.

von GILLERN: Yeah. OK. Thank you.

SLAMA: Thank you, Senator von Gillern. I have one question--

JACOBSON: Go ahead.

SLAMA: --before you hop in. Mr. Rieker, I'm going through the white copy amendment, and I'm just trying to see, and I understand your argument. I share everyone and I think everyone on this committee's concerns with threats to the biggest industry in our state, the agricultural industry. I'm just trying to understand with the white copy of LB730 and perhaps this might be something Senator Holdcroft addresses in his closing, but I'm not seeing any teeth with this. I'm not seeing any criminal penalties or civil penalties or even mechanisms for enforcement. So if a bank is doing these practices, which I think we've kind of established that our community banks aren't, and they say we're not going to disclose, like what's, what's the recourse?

BRUCE RIEKER: Well, without stated penalties, I mean, it would probably, if it were to go into something of litigation, it would be a civil action based upon a question of fact. I, you know, there aren't, yeah, you're right. There aren't penalties associated with it. I have not had that conversation with Senator Holdcroft about penalties. You know, it truly the reason that we're here is that it helps elevate the issue, the awareness of the issue, and transparency if something like that should take place.

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SLAMA: And you and I shared the interest of elevating the issue last year with right to repair so I appreciate that we're on the same page with this one this year. Senator Jacobson.

BRUCE RIEKER: I would like to say it worked too.

SLAMA: Hey, we have an MOU, so we'll see.

BRUCE RIEKER: Yeah.

JACOBSON: One last question for you.

BRUCE RIEKER: Yes, sir.

JACOBSON: And I want to follow up on Senator von Gillern's question, because it's a good one. OK. So if I'm a homebuilder--

BRUCE RIEKER: Yeah.

JACOBSON: --should we not pass legislation then to make them disclose who they buy their materials from? Weyerhaeuser, Bryant, all the major manufacturers. Should we not ask them to disclose and get their ESG policies and disclose whether or not we're buying from them and make that known as well and then get them, get the homebuilders engaged in helping you as well? I mean, I mean, why pick out one industry? Why don't we go get every industry that buys from any kind of major manufacturer, some major supplier? Let's get everybody involved. Why just limit it to the banking industry? Let's bring everybody on board. Same thing with equipment manufacturers.

BRUCE RIEKER: Yeah.

JACOBSON: I mean, if you've gone to the equipment manufacturers, are you going to lobby to get them involved as well? So John Deere and, and Case IH, are we going to ask them for ESG policies within those organizations and disclose that? I mean, where do you stop, is my question.

BRUCE RIEKER: We're going to lobby everyone for anti-ESG policies.

JACOBSON: But they're not in this bill.

BRUCE RIEKER: This isn't a big enough bill to conquer all that.

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SLAMA: Thank you, Senator Jacobsen. Additional questions from the committee? Seeing none, thank you very much.

BRUCE RIEKER: My pleasure, as always.

SLAMA: As always. Additional proponent testimony for LB730. Proponents for LB730. All right. Last call for proponent testimony. Speak now or forever hold your peace. Moving on. We will now move to opposition testimony for LB730. Good afternoon.

MARILYN McNABB: Good afternoon. A long afternoon.

SLAMA: We work to earn our 12K here.

MARILYN McNABB: You do it. Chair Slama and members of the Banking Committee and Insurance Committee. Umm. Excuse me. I'm Marilyn McNabb. I'm a member of the Lincoln Friends Meeting and my views are strong on longstanding Quaker traditions. They're also, in part, a result of consultation with Jeffery Perkins, executive director of the nonprofit organization called Friends Fiduciary, that since 1898 has provided investment management. And I saw this bill as directed in investing people who offer investment services as well as the ones we've talked about so far. He wrote, and I and many others of my faith community steward our investments with the objectives, ensuring sound financial returns while investing consistent with our Quaker values. We believe that the Quaker values of integrity, community equality and care for the creation directly support not only good business and investment decision making, but the well-being to our society. LB730 appears to want to solve a problem that does not exist. It seems to imply that business and individuals are unfairly being denied services from financial institutions as a result of what the bill calls nonfinancial, nontraditional and subjective measures such as environmental, social and governance criteria, governance criteria or political and ideological factors. Consideration of environmental, social and governance, ESG factors have become pillars of mainstream investment analysis and business decision making. Thousands of businesses and business investors, as well as policymakers and financial regulators, have identified climate change, water scarcity and pollution and poor corporate governance as material financial risk. Analysis, assessment and consideration of such factors are an essential part of managing business and investing. Investment risk, which supports stable, long-term business sustainability and investment performance. From our perspective, excluding these considerations from investment and business decision making jeopardize the ability of financial institutions to fulfill their fiduciary and moral responsibility to their clients. This bill would offer legislation and unduly restrict private business and investment decision making. Holistic long-term risk assessment is fundamental to the sound operation of financial institutions and investing. The restriction of these important measurement tools jeopardizes the financial health of companies operating in Nebraska. The integrity of the free market, let me say that again, the integrity of the free market and a strong, resilient economy. Jeff Perkins speaks for me when he writes, in fact, continued innovation and improvements in the sophistication of managing long-term financial risk, including climate risk, should be encouraged rather than restricted. Thank you for considering these views. I'm sorry about my views.

SLAMA: Oh, no need to apologize, Ms. McNabb. Just for our transcriber, would you mind saying and spelling your name for the record?

MARILYN McNABB: Right. It's M-a-r-i-l-y-n M-c-N-a-b-b, as in boy.

SLAMA: Thank you very much, ma'am. Questions from the Committee? Seeing none, thank you so much for being here today. Good afternoon.

BRAD KOEHN: Good afternoon, evening, Chair Slama, members of the Banking, Commerce and Insurance Committee. My name is Brad Koehn, B-r-a-d K-o-e-h-n. I am currently the regional president and on the board of directors of Midwest Bank, the state chartered community bank in Nebraska. I am here to testify in opposition to LB730. For brevity sake, I want to address three specific issues for your consideration in opposing this bill. First, there is no practical purpose or benefit to the public, state or banking industry for a law like this. The banking industry is perhaps the most heavily regulated industry in our country, and there are a number of existing federal laws and regulations already in place to ensure fair access to financial services, including just to name a few, the Equal Credit Opportunity Act, which includes adverse action notices for all denied loan applicants. The Fair Lending Act, Truth in Lending, Truth and Savings, Unfair, Deceptive or Abusive Acts or Practices Act, also known as UDAAP, the Home Mortgage Disclosure Act to the Community and, Community Reinvestment Act. In fact, this bill contradicts how banks themselves are evaluated by the State Department of Banking and all

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federal regulators in assessing risk, in assessing risk, in assigning bank ratings, where management is a key component in the CAMELS rating system used by all bank regulators, state and federal. I should also mention that the bill conflicts with the spirit and intent of the know your customer provisions of the US Patriot Act enacted two months after 9/11. The second, perhaps more important consideration is the narrowly restrictive and incomplete rules of business it places on bank management in decision making. To illustrate the point on decision making, bankers and regulators alike assess loan repayment on both the applicant borrower's ability and willingness to repay their debt. This proposed bill prohibits consideration of the willingness to repay a fundamental tenant in the five Cs of credit character. To illustrate the point on management, one particular risk management requirement by bank regulators is governing concentrations of credit in a particular industry, a valuable systemic risk management tool that would contradict and violate the rules of this bill. Finally, I'd like to provide you with a few practical examples of prudent banking practices that would indeed violate the spirit and intent of this bill. In the mid-1990s, during the housing boom and ultimate bubble, our bank made a loan policy underwriting decision requiring that homebuilders have a minimum of five years business experience. This was to prevent our exposure to the rapid entry into this business by many who were not professionally qualified and thus protect all involved in the building and ultimate ownership of the home from a myriad of risks such as exorbitant cost overruns, inferior or incomplete work and trade leads filed on the homeowners property. This policy proved to be very effective and was specifically noted and applauded by our federal regulator. The very essence of cash for lending is fundamentally predicated upon the banker's confidence in the management ability and character of the individual borrower. This particular--

SLAMA: Can we get your last thought?

BRAD KOEHN: --this is particularly true at the beginning. What?

SLAMA: Can, I'm sorry, the alarm is running.

BRAD KOEHN: Oh, I'm sorry. I beg your pardon.

SLAMA: So, oh, great. Thank you very much for testifying. Do we have questions from the committee? Yes. Senator Jacobson.

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JACOBSON: I think you're in the middle of a thought. I would like for you to finish that if you would.

BRAD KOEHN: Thank you. Because I believe it is very important. So to get to assessing eligibility, when you get into the beginning farmers and small business owners, as there's been previous testimony, federal regulation, there are federal regulations outlining eligibility requirements for the Farm Service Agency guaranteed in farm ownership loans. That specifically contains sufficient experience requirements for loan eligibility. Eliminating our ability to utilize that would be detrimental to helping beginning farmers and also small business.

JACOBSON: Well, I, do have two quick questions for you. And, and I guess, first of all, I take it, your bank has no ESG policies in place.

BRAD KOEHN: That's correct.

JACOBSON: Do you anticipate adding any?

BRAD KOEHN: I'd rather not. I, I don't think it's necessary.

JACOBSON: All right. Thank you.

SLAMA: Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, thank you very much.

BRAD KOEHN: Thank you. Sorry for running over.

SLAMA: OK. No worries. Good afternoon.

NICK VRBA: Good afternoon, Chairman Slama and members of the committee. My name is Nick Vrba, N-i-c-k V-r-b-a. I am currently the executive vice president of First State Bank and Trust Company, a $450 million state chartered community bank based in Fremont, Nebraska. I'm here to testify in opposition of LB730. First of all, as the legislation reads today, a financial institution would be prohibited from denying a banking service to any person for failure to meet quantitative, impartial and risk-based financial standards. I would like to discuss the areas of quantitative and impartial standards and how each bank is different and how those are analyzed. Each bank in Nebraska calculates and determines its quantitative risk in lending differently. Most banks will be, will determine an internal set of financial standards that a client would need to meet at a minimum when evaluating the capacity, capital and collateral. Those parameters would include calculations in regards to loan to value, debt service, working capital, and net worth. Most debt service needs to be a minimum of 1.25 times the average loan to values, typically 75 to 80 percent. Working capital and net worth depend on the business and type of loan. These benchmarks will vary bank to bank and are not necessarily consistent depending on the type of loan being sought. Also, each bank's standard is different due to the risk appetite of that bank. For example, one bank might choose to have a weaker loan to value requirement on real estate loans because they want to target that market for growth while the other bank down the street is higher because they already have a concentration in that segment. Also, some banks may be more aggressive in certain lending segments than other banks. An example of this might be a bank loosening the clout requirements for a new doctor's office while the bank down the street always has had a hard collateral policy. Some banks may choose to not lend in certain industry segments due to its business model and risk appetite. I personally know bankers who will not entertain loans to the hospitality industry or buy auto dealer paper because it does not fit their business model. Under the proposed legislation, who is setting the quantitative, impartial and risk-based standards? Who will be evaluating whether or not banks are applying them consistently in each case? What happens when a client meets the bank's quantitative financial standards and it is in an industry segment that the bank does not have its business model for expertise in to handle. Is the bank forced to make that loan? What potential lawsuits are waiting in the weeds against banks for not making a loan when a client feels the financial standards were met? Our bank on occasion will have clients apply for loans and meet the quantitative, impartial and risk-based standards. However, we still choose to not make those loans for qualified non-financial reasons. This legislation as reposed, as proposed, would require our bank to make those loans. I would like to share with the committee a real life example of this recently in our bank. We had a start up business in Fremont come to apply for a commercial loan. This potential new borrower was a direct competitor of one of our long-term clients. The potential borrower met all of the financial standards. However, our bank chose to not provide financing as we did not want to be involved with a direct competitor of one of our bank's best clients. We would have had to make this loan under the proposed legislation. While LB730 does not prevent a bank from making

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a loan when quantitative risk-based standards are not met, the importance of utilizing subjective nonfinancial reasons is highlighted by the many instances in which banks extending financing to beginning farmers and start up small businesses that may be marginal from a purely financial perspective, but because of the character of the family, the reputation within the community the bank is worth taking a risk on that. In closing, banks should be free to lend to, invest in and generally do business with any entity or activity that is legal without government interference. They should be free not to lend, invest or otherwise engage so long as they do not violate statutory regulatory or fair lending laws. Thank you for your time and allowing me to testify in opposition of LB730.

SLAMA: Thank you very much, Mr. Vrba. Are there any questions from the committee?

JACOBSON: Just that my dinner plans are at seven so I know the rest of the committee is nervous about this. Your bank doesn't have any ESG policies today, doesn't plan to do any?

NICK VRBA: Zero intention.

JACOBSON: Thank you.

SLAMA: Thank you, Senator Jacobsen. Additional questions from the committee? Seeing none, thank you very much.

NICK VRBA: Thank you.

SLAMA: Good afternoon.

BRIAN MORROW: Good afternoon, everybody. Chair Slama, members of the committee, my name is Brian Morrow, B-r-i-a-n M-o-r-r-o-w. I'm vice president and chief risk officer at Pinnacle Bancorp here in Nebraska, testifying in opposition of LB730 on behalf of the Nebraska Independent Community Bankers and the State Chamber, Nebraska State Chamber. We believe the language in LB730 would have a negative impact on community banking business model in Nebraska if it were to be adopted. It is our understanding that the intent of this bill is to limit certain factors in the approval of, in the approval or denial of financial services. Both quantitative, and qualitative factors are required when community bankers make decisions about whether or not to lend on board deposit accounts or even wiring money to name a few examples. The way this bill is written, currently written, is vague at best and would be hard to apply. From our perspective there's not currently a financial access or fairness problem across the state, making this bill unnecessary. Federal and state laws already exist requiring banks to provide fair access to both lending and deposit services, and banks are routinely examined by federal and state regulators to ensure these laws are being followed, which includes examination of denials as well. Nebraska branch banks are proud of these standards and strive to provide banking services to all. We don't see fair access to banking as a problem for Nebraskans. Banks today already utilize risk standards when making decisions about a customer or prospect. Community banks exist for the purpose of serving their communities and seeing their communities thrive. A community banker is a person best situated to determine when a customer comes with too much risk for that banker's appetite. Approval or denial can be based on many factors, including but not limited to credit, industry, markets, liquidity, economic sensitivity and operations to name a few. Banks should not be beholden to pre-approved standards as this bill exists. If LB730 were to pass, it would be a logistical nightmare to create new uniform risk standards in advance of monitoring this ongoing process. From an operations and compliance perspective, the regulatory burden is ongoing and all the paperwork and disclosures required, this bill would be significant. Regarding the inter, environmental, social and governance criteria or ESG mentioned in this bill, today no banks domiciled in Nebraska are required to apply ESG rules, nor are we aware of banks implementing these standards. This bill seems to be creating a solution to a problem that doesn't exist. The Nebraska Independent Community Bankers is proud that Nebraska has a thriving community bank industry helping small business, the agriculture industry, farmers and families be successful with their perspective financial goals. We oppose any attempt by policymakers to interfere with these relationships and with what makes community banking special. Community banks already have the burden of dealing and complying with regulation on our industry. The last thing we need is additional burden at the state level that threatens on how we do business. For these reasons, we ask you to not advance LB730 from this committee. Thank you, and I am happy to answer any questions you may have.

SLAMA: Thank you. Mr. Morrow, Are there questions from the committee? Senator Jacobson.

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JACOBSON: Mr. Morrow, your Pinnacle Bank, if I'm not mistaken, is the largest state chartered bank domiciled in Nebraska, is that correct?

BRIAN MORROW: Yep.

JACOBSON: Any ESG plans?

BRIAN MORROW: No.

JACOBSON: Any today, none.

BRIAN MORROW: There are no plans.

JACOBSON: Tell me what you see in this bill that could possibly help you or your bank customers.

BRIAN MORROW: I can't think of any.

JACOBSON: Thank you.

SLAMA: Thank you, Senator Jacobson. Additional committee questions? Seeing none, thank you very much.

BRIAN MORROW: Thank you.

SLAMA: Additional opponent testimony on LB730. Welcome back.

ROBERT M. BELL: Thank you. Good evening, Chairwoman Slama and members of the Banking, Commerce and Insurance Committee. My name is Robert M. Bell, last name spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation. I'm here today in opposition to LB730 and also here to spar with Senator Jacobson about the most regulated industry. (LAUGHTER) The Nebraska Insurance Federation is a state trade association of insurance companies. The federation currently has over 40 member insurance companies. Members of the Federation include companies who write all lines of insurance and who provide over 16,000 jobs to the Nebraska economy and over $14 billion in economic impact to the state on an annual basis. Perhaps most importantly, the Nebraska Insurance Federation member companies provide high value, quality insurance products that protect Nebraskans during difficult times. I give this introduction many times on bills, but not all that I testify on, to inform senators of the role of insurance in our state. And many times that focus is on the incredible economic presence of the Nebraska insurance industry. Depending on the metric, Nebraska has consistently rated as one of the top states for, to be an assurance, home for an insurance company. We are in the top ten of premium written across the United States, third in assets and number one in surplus. But today, I want to focus on the last line of that intro that insurance companies provide high value, quality insurance products to Nebraskans. In our view, and our reading of LB730, the language as introduced would imperil the ability for insurers to provide these products to Nebraskans. I might jump around here a little bit, and because of time, Nebraska has a robust and vibrant insurance market and some of these, and some of the companies market to certain populations. And Nebraska insurance is sold to many different types of consumers, businesses, associations and groups of people. If someone is not happy with an insurance company, the consumer all, and that happens all the time, by the way, the consumer always has the option to go shop and find a different insurance company, which is one of the joys of the free market. I have not heard of situations where business or individuals or associations of people in our state are having difficulty in securing insurance. If such situations did arise in our state, I would encourage Senator Holdcroft and the proponents to reach out and discuss the situation with insurers. For these reasons, the Nebraska Insurance Federation opposes the provisions of LB730 and I appreciate the opportunity to testify.

SLAMA: All right. Thank you, Mr. Bell. I've got a quick question before I turn to Senator Jacobson--

ROBERT M. BELL: Sure.

SLAMA: --for whatever he's going to ask. But looking through this bill, it specifically as it implies, it applies to insurers, I understand ESG, but what sometimes overlaps into ESG is that governance side of it in which you actually have some sound governance policies in question, like having a board of directors or making sure your chairman and your CEO are different people.

ROBERT M. BELL: Mm-hmm.

SLAMA: I mean, in your practice of insuring businesses, wouldn't that inherently lead to different rates if you're not following those standard best practices for running your company?

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ROBERT M. BELL: Oh, yeah. I mean, I think in a, in a business situation that a company is going to look at, an insurance company is going to look at that business and look at all of the risk associated with that and make the proper determination. And honestly, there are some companies and I kind of hinted at it in my testimony and, and, and I didn't catch the name. I'm sorry the, the, the lady that testified first and mentioned that she was a Quaker. I'm a Lutheran. I have a policy, a life insurance policy was sold to Lutherans. I have, I have done business with Guide One Insurance Company, not a member, but a Iowa insurance company. They only do business with churches. They, they underwrite the church. Like the, the building and the liability related to that. Even reading the amendment, which I didn't see until today, I look at this and I look at political and ideological factors. So what happens if Planned Parenthood walks into Guide One and wants a, wants a policy on their, on their building, must they write it? I think, I talk a lot about unintended consequences and trade horribles a little bit from time to time. But I think in the business, you know, you want to be able to say no, right? Sometimes on factors that are not just financial. You know, you have to weigh everything, so.

SLAMA: Yeah.

ROBERT M. BELL: Did that answer your question.? I'm sorry.

SLAMA: It really does, no.

SLAMA: And I appreciate your perspective on that, especially with drawing in the religious example. That was something I actually hadn't considered, so I appreciate you bringing it up. Senator Jacobson.

JACOBSON: I'm out of bullets. I'm reloading.

SLAMA: Wow! OK. Additional questions from the committee?

ROBERT M. BELL: I thought we would find out more disclosures and notice, so.

JACOBSON: You will after this one.

SLAMA: Well, thank you, Mr. Bell.

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ROBERT M. BELL: I would also point out that there are insurance companies, members of the Federation, that only write to veterans, they only write to service personnel. I mean, there's just a variety, it's a kaleidoscope of insurance companies out there. And then, you know, don't tie our hands, if you don't have to. But if there's a problem, let's talk about the problem and let's come up with a solution.

SLAMA: Thank you, Mr. Bell.

ROBERT M. BELL: You're welcome.

SLAMA: All right. Additional opponent testimony on LB730? Anyone else? OK.

BRANDON LUETKENHAUS: Neutral.

SLAMA: Neutral. OK. We're going to move in a neutral testimony on LB730. Good evening.

BRANDON LUETKENHAUS: Good evening, Chairwoman Slama and members of the Banking, Commerce and Insurance Committee. My name is Brandon Luetkenhaus. B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s, and I'm here on behalf of the Nebraska Credit Union League. Our state trade association represents Nebraska's 56 credit unions, which are federally insured not-for-profit member-owned cooperative financial institutions that serve the saving and credit needs of 547,000 member account holders. In addition to being not-for-profit, Nebraska's credit unions are directed by unpaid volunteers elected by and from the membership of the credit union. I want to thank Senator Holdcroft for working with us and addressing concerns that we had with LB730 as introduced. We are neutral at this time as we do support the AM312 as it pertains to credit unions, Section 5, lines 25 through 30. The amendment delivers more clarity for credit unions by providing that a credit union may not deny membership alone or services to a person that meets the field of membership for that credit union based solely on subjective members such as ESG criteria or political or ideological factors without actual notice delivered to the person of the measures criteria or factors used in making the denial. We believe the amended language satisfies our concerns. Credit Union's Board of Directors has a fiduciary duty to establish the parameters and policies by which a credit union will operate, independent of political agendas, social pressures or any other nonfinancial factors. Credit unions believe in a free market that promotes competition, increases efficiency in innovation. Prior to, prioritizing political agendas over the interests of credit union members is also inconsistent with credit union principles and philosophies. With that, I'll answer any questions you might have.

SLAMA: Thank you very much, Mr. Luetkenhaus. Any questions from the committee? Seeing none. Thank you very much.

BRANDON LUETKENHAUS: Thank you.

SLAMA: All right. Additional neutral testimony on LB730? Seeing none. Senator Holdcroft, you're welcome to close. As you come up, for the record, there were 32 proponent letters for LB730 and 5 opponent letters for LB730. Senator Holdcroft to close.

HOLDCROFT: So I assume consensus calendar is out of the question here with this.

SLAMA: I mean, we haven't voted on it.

HOLDCROFT: I guess, you know, the, the, the, the purpose of the bill is about ESG. I mean, that's what we're concerned about. And there is no effort to try and make things more complicated for banks, credit unions and the, and the insurance companies. We're just trying to, to set up a criteria or a matrix or a methodology to identify ESG when it comes. So I agree currently with our, our community banks, with our banking system in Nebraska, we don't have ESG, but how do we detect it when it comes? How do we, how do we know what's to keep the national banks from putting the screws to our local community banks, buying them out and imposing ESG? And if we don't have some kind of mechanism within the state to identify when that is occurring, then we're going to be caught by surprise. A couple of things just really to Senator, Senator Ballard, I think asked the question maybe about how this is going to work, is if you look at the fiscal note, it kind describes how the Nebraska Department of Banking and Finance would be responsible to investigate and respond to complaints brought under the act. So if someone believes they have been discriminated due to ESG, that's really what we're focused on. Then they would report that to the National Department of Banking and Finance, and they're required to follow it up and investigate it. And they've actually put in the note an additional FTE to, to handle that additional workload. Probably not enough, but at least we have some way of, of getting it to work. So I am happy to work with, with the bankers and the credit union folks and the insurance folks to, to make it as easy as possible to leave it currently the way it is, as long as we can set up another mechanism in place that we can identify and define what those ESG standards are when they occur, and make sure that they're brought to the attention of, of the state of Nebraska leadership.

SLAMA: Thank you very much, Senator Holdcroft. Are there any questions?

JACOBSON: I just loaded with a couple bullets. First of all, Senator Holdcroft, thank you for your patience today. And, and I think you and I visited about this, and I think we both agree on, we both have issues with ESG. I think we disagree on how to, how to go after fighting it. I guess one of the concerns I have, and I believe it was brought up by one of the testifiers is, as we look at banks today, if someone came to North Platte today and sat down and applied for a loan and they're an abortion doctor, and they decided that they wanted to build an abortion clinic in North Platte and asked me to finance it, should I have the reason? Should I have the right to turn them down?

HOLDCROFT: Well, I think you do have the right to turn them down.

JACOBSON: Would I be able to do it under this bill?

HOLDCROFT: You know, I'd have to look into that, I'm not sure, probably not. As we said, one of the comments that was made by one of the bankers was that under this criteria, they would have to make a loan. They would have to make a loan. There's no requirement for any, any bank to make a loan under this bill. If they deny someone a loan, then they need to justify. They need to show, be able to show why through quantitative measures, they, they decided not to give the loan. I think that's fair. I think the thing, same criteria would go with a, with an abortion clinic. If you, if you use the five C's, you can still deny a loan to them. But you need to, you need to be able to justify why you denied the loan to them.

JACOBSON: It would seem to me that it would fall under the social category that I socially object to abortions and therefore that's why the denial. It seems like it falls squarely within it. My concern is this sword cuts both ways, and that's why I believe that we need to be neutral, truly, as the bill would suggests, neutrality. We should not allow this to be impactful on the decisions that we make and we're small businesses that, that truly want to serve our customers be profitable in the process. We do that by making more loans and bringing in more deposits. And I think at the end of the day, as many have said, this is, this is a, a solution in search of a problem that isn't here. If this becomes a problem, I think we ought to readdress it. But until it does, we're hearing from the largest state chartered bank in the state in Nebraska, who's largest by quite a bit, who has no intentions of doing anything like this. And frankly, all the rest would be more than happy to take what they want to turn down if they ever decided to do it, which I know they won't. So, so I'm just saying I just have trouble with why it's here. But again, thank you for, for, for your patience and and your collegiality and, and we're still friends, even though we disagree on this issue.

HOLDCROFT: Well, I don't know, I may have to rethink it.

JACOBSON: I know you may have to rethink it, but I'm still here. (LAUGHTER)

SLAMA: I promise to be the intermediary, if we have to build a bridge. Thank you, Senator Jacobson. Any additional committee questions? Thank you very much, Senator Holdcroft.

HOLDCROFT: Thank you.

SLAMA: And with that, we will bring our hearing on, on LB730 to a close and this committee will stand at ease for the next 10 minutes, 10 minutes to give our staff a much needed break. We will reassemble here at 5:20 for the final hearing of the evening.

[BREAK]

SLAMA: All right, we will kick off today, today's hearing on LB743, introduced by Senator Kauth and I believe her legislative aide is introducing on her behalf. She has another bill up in committee today. All right. Welcome, Mr. Duey.

TIM DUEY: Thank you, Chair Slama. It's just a-- it's a small, inconsequential bill or else she'd be here.

SLAMA: Consent calendar, I think.

TIM DUEY: Good afternoon, members of the Banking Committee, Chair Slama. My name is Timothy Duey, spelled T-i-m-o-t-h-y D-u-e-y. I come before you today to introduce LB743 on behalf of Senator Kathleen Kauth, District 31, Omaha. LB743's fundamental purpose is to ensure that public funds are being invested for the good of the beneficiaries and not to further any social, political or ideological interest. It is a bill about responsible stewardship of public funds. LB743 will also establish that anyone who manages public funds acts in a fiduciary role and that financial factors are the primary concern of any person or entity fulfilling that role. Unless no economically practicable alternative is available, any investment manager, fiduciary government entity or financial institution that manages any shares shall buy any public fund by-- held by any public fund shall not grant proxy voting authority and trust shares of a public fund under management to a fiduciary or follow the recommendations of a proxy advisor or service provider unless acting solely upon financial factors. Any shares of public funds subject to a proxy vote would have to be tabulated and reported annually to the State, State Treasurer with a vote caption, the public funds vote and the recommendation of the company management or proxy advisor's recommendation reported and posted publicly on the State Treasurer's website. Guidelines for what is considered allowing social, political and ideological interests to supersede fiscal ones are also outlined within the bill. These include things like investing to eliminate greenhouse gas emissions, determining corporate board or employment composition or compensation using social, political or ideological factors as determinants, divesting from limited-- divesting from or limiting investment in companies for other environmental factors or due to abortion, sex or gender change access or Second Amendment issues. Violations of the act would incur damages equal to three times that of all money paid to the fiduciary by a government entity for the fiduciary services and would be subject to the investigation by the Nebraska Attorney General. As you can see, we have an amendment pending on this legislation, AM373. It should address some of the concerns expressed to us by stakeholders, namely defining and tightening the fiduciary role under the act and adding a new section to address a technical issue in the bill. I will add that we are still working on that. We were sent that amendment about 15 minutes ago and I just sent it right back up. So subject-matters experts who were integral in the drafting of the amendment will follow me to answer key questions that any of you may have. And with that, I would ask Senator Jacobson to spare me and introduce the bill.

SLAMA: Thank you, Mr. Duey.

JACOBSON: The Chair was already going to do that.

SLAMA: I do my best. And-- oh, yeah. You don't get to close, sorry. Will you be sticking around?

TIM DUEY: Probably.

SLAMA: I mean, you're fine.

TIM DUEY: I'll stick around.

SLAMA: Sounds good. All right, we will now open it up for proponent testimony on LB743.

BEAU ROYSDEN: Good evening. Chairwoman Slama and Senators. My name is Beau, B-e-a-u, Roysden, R-o-y-s-d-e-n. I'm here on behalf of Heritage Action for America to testify on LB743. Nebraska's retirement savings face a real threat from asset managers' efforts to push ESG policies on publicly traded companies. This bill addresses that threat by ensuring that state pensions are managed solely for the purpose of maximizing financial return for retirees. This bill is a strategic, reasonable and targeted approach. Unfortunately, over the last few years, asset managers have joined together to use retirement funds to, quote, transform the economy to meet environmental goals. Due to the popularity of index investing, three asset managers are the largest shareholders in around 90 percent of the S&P 500 stocks. As large shareholders, they have enormous clout to pressure CEOs and boards to adopt environmental, social and governance policies. Asset managers have chosen to coordinate to jointly push these policies. For example, BlackRock and State Street have both committed to meet, to meet with companies and use their shareholder votes to push those companies to reach net-zero greenhouse gas emissions by 2050. These commitments are part of the Net Sero Asset Managers Initiative, or NZAM, which itself has $57 trillion in assets and Climate Action 100-plus, which has $68 trillion in assets or more than double the United States GDP. Now, I know we've asked how does this affect Nebraska? So I will preempt that and say specifically of the 11-- pardon me, the $17.6 billion in assets of Nebraska public retirement funds, $11.4 billion, or $2 out of every $3 in assets, are managed by asset managers who have joined Climate Action 100-plus. That's the global group that has $68 trillion in assets and has committed-- they've pledged to pressure companies to reach net-zero emissions, among other things. Firms like BlackRock ask companies to reduce their emissions. This is the primary way that ESG policies are pushed. It is not through our democratic process. I'll just close by saying reaching net zero is a radical commitment. Even the United Nations recognizes that this will require us to fundamentally transform our energy and will have a significant impact on the use of fertilizer, manufacturing and steel, automobiles and exploration for oil and gas, among other things. As one final point, this has serious national security concerns because a lot of the clean energy technology flows to China and this will strengthen China at the expense of our national security. With that, I welcome your questions.

SLAMA: Thank you. Mr. Roysden. Are there any questions from the committee? Yes, Senator Dungan.

DUNGAN: Thank you, Chair Slama and thank you for your testimony here today and your work on this. I guess my fundamental question or concern here is this seems to confuse or potentially conflate politics with what a fiduciary's goal is. And so if at the end of the day, we fundamentally have a fiduciary whose obligation is to represent their client-- [RECORDER MALFUNCTION] -what's best on the client's behalf and make sure that money's going to have the best returns, be cared for in an effective way. However you want to define what the specific roles of a fiduciary are, which I'm sure other people here have a way better definition of than me, which I know it's in the amendment now. But what if it is in the best interest of the investment to invest in a fund that happens to also have ESG policies? It seems to me that by saying you cannot invest in these firms is limiting the role of the fiduciary to potentially not make what is the best bet for their client. And I understand we have the numbers here of these other entities like BlackRock and things like that. But just in the future, just do you think that that would cause a potential problem in terms of confusing the role of the fiduciary if we say that you are not allowed to invest in things that may give the best return on their, on their funds?

BEAU ROYSDEN: So thank you for the question, Senator. First of all, I think what's important, the bill specifically says unless no economically practicable alternative is available and it uses that to limit some of the commands in the law. So if there were a situation where the only economically practical alternative was a firm that does engage in these ESG metrics or investing, that would not violate the law. So I think that's point number one. But point number two is I think we have to remember that there's-- we're talking about two different things. If you're talking about ESG in the sense of some risk that is actually a material risk that affects the financial performance of an investment, that is, that is consistent with this bill. What we're talking about is we're talking about when fiduciaries are using not their own money, but other people's money, including the retirees in the state of Nebraska, to push collateral benefits, stakeholder capitalism. And in that context, I don't think we're confusing. If anything, what this bill does is it strengthens the traditional role of the fiduciary. So in your hypothetical, having a fiduciary saying this particular investment for solely financial reasons is the best investment, that would be completely consistent with this law. What would not be consistent with this law is if they said we're going to pressure a company like Exxon or Chevron, you know, to keep the fossil fuels in the ground, which is exactly what the New York City comptroller did. He wrote a letter to BlackRock saying, hey, how come you are keeping the fossil fuels in the ground? Is that really in the financial interests of a company like Chevron or Exxon? But what this bill does is it says you got to focus on the financial factors.

DUNGAN: And I think following up on that-- and I appreciate that. That's good clarification. On the definition of economically practicable, who determines that? Is that up to the Attorney General once the suit has been filed?

BEAU ROYSDEN: Well, ultimately, it would be up to the courts, obviously, because they have the final say on the law. I think you're right that the Attorney General would have to exercise his discretion in bringing an enforcement action. I know your prior Attorney General actually put out a, an entire report on ESG, which was pretty important. I hope you guys review that because I actually-- just to point that out, the last Attorney General said through the ES-- pardon me, through the ESG enterprise, a small self-appointed group of global financial organizations are creating and imposing standards on businesses and punishing them if they do not comply. This movement is a threat to our democratic form of government. So I think the Attorney

General is well, well suited to evaluate that and consistent with the separation of powers-- obviously, you guys enact the law, the executive branch enforces it and the courts would ultimately decide what the law is. They get the final say.

DUNGAN: And that makes sense. And kind of going after what Senator-- or sorry, Chair Slama had said earlier with regard to teeth in another bill we were talking about, I, I'm a, I'm a lawyer by trade. And so when I look at these things, I look for what's the mechanism, what's the teeth and what are we doing? And it feels like to me what we're essentially doing here is creating a defense where you'd have to then argue that something is economically practicable. And I think that part of my concern there is what does that mean exactly? I mean, if there is a similar return if you invest in two separate entities and one of them does have ESG policies and the other one doesn't, but you could get a better return on one, but the other one's slightly less, is it still economically practicable? I guess I just have concerns about the vagueness of that language, if that's something I could flag for you. And then the last question I have and then I'll let you move on in Section 4 on page 4, it outlines what those political, ideological or social interests are. The language of this doesn't seem to-- the language of this seems to outline five specific ESG factors. It doesn't necessarily say such as, but not limited to. Is it your reading of this that those are the five specific factors that cannot be taken into consideration by the fiduciaries or is it your intention to have other potential ESGs also be involved? Or would it be just limited to those five?

BEAU ROYSDEN: I think if you look at the, the beginning part of Section 4, which is at the bottom of page 3, two, two things. One, those five are beyond what federal or state law requires. So really, we're talking about activist situation. But I think those five are, are illustrative examples of what a court could ultimately determine constitutes a fiduciary taking action based on a factor to put further social, political or ideological interest. I don't think that's meant to be an exclusive list. I think that's just meant to be an illustrative list for, for the Attorney General, ultimately.

DUNGAN: OK. Thank you. I appreciate your answers.

SLAMA: Thank you, Senator Dungan. Additional committee questions?

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JACOBSON: I have to ask a question--

SLAMA: Senator Jacobson.

JACOBSON: --but I'm going to make it really quick. I understand there's an amendment coming. I'm looking forward to act two. I have-- although I have indigestion on this, not nearly as much as the first bill. So I'm not going to ask a bunch of other questions to the testifiers other than I do have a little concern about we're talking about the major investment firms as being the culprit, but yet, this bill includes, on line 23 and 24 on page 2, financial institutions. I think we've, we've ironed out from the last testimony that, that community-- state-chartered banks in Nebraska are not the problem so I'm not sure why we're included in the solution. And so would you support an amendment that would eliminate state-chartered financial institutions in Nebraska?

BEAU ROYSDEN: I-- obviously, I'd have to-- I'm here on behalf of Heritage Action. I'd have to check with them, but I think that, that point is well taken.

JACOBSON: Strong maybe. And then also, I guess, I'm curious that we also have investment firms that are investing money from municipalities that are investing in discount notes. Most of those discount notes are companies that do have ESG policies. Would you be opposed to the investment of those entities in discount notes?

BEAU ROYSDEN: I think if I'm understanding the, the-- if the fiduciary themselves is making the investment decision based on financial factors, then I think that would comply with the law. If the-- I guess you're saying the ultimate recipient of the funds themselves may have, like, an economic development. Well, I think, I think that'd be fine. You'd just have too--

JACOBSON: No, I'm saying the recipients of the fund might be a major corporation with an ESG policy, so.

BEAU ROYSDEN: Right, this only applies to that first-- the fiduciary because the problem that this bill is trying to solve is the activists, you know, partnering or pressuring the asset managers to essentially vote other people's money to pressure the company. So if a company itself has ESG policies, that wouldn't disqualify it. It's

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shared. You know, Exxon, pretty much every company, every major company at this point, I think, has been forced to adopt some sort of ESG statement. That doesn't mean that a fund can't invest in them. It just means the fund has to act based on financial factors. That's the narrow focus of this legislation.

JACOBSON: Removing state-chartered financial institutions who are the innocent party here would go a long ways with me.

SLAMA: Thank you, Senator Jacobson. Senator Dungan.

DUNGAN: Thank you. Chair Slama. And I, unfortunately, have to run to another meeting so you won't have to put up with more questions from me after this. That's why I'm asking one more. So if-- and this is a broader question because I understand you work on this policy, it sounds like on, on a big scale, correct?

BEAU ROYSDEN: Yes.

DUNGAN: You work on ESG policy?

BEAU ROYSDEN: I do other ESG matters.

DUNGAN: OK. If the majority of banks that we're talking about here, if the majority of national and federal banks have adopted ESG policies, at what point does it go to mainstream and no longer becomes activism? And I ask that because I'm not saying I'm for or against ESGs. I'm just saying it sounds like this is a trend that the vast majority of the country is moving towards. And I've heard a lot of the concerns about them from our ag producers. I am very sympathetic to that concern and our friends here on the committee have expressed similar concerns. I'm not saying I'm for them necessarily, but at a certain point in time, if that's the national trend that we're moving towards, are we going to put ourselves in a bad position here as Nebraskans who have to look out for our money, who have a fiduciary duty to our investee-- investors if we prohibit ourselves from participating in what is a growing sector of the market and eventually is likely to become the majority?

BEAU ROYSDEN: So two things: first of all, I don't think this prohibits the fiduciaries from-- for participating in any sector. They have to make their decision based on financial factors. But second as to the banks, as to asset managers, I think what is particularly concerning is you don't have each individual bank making its own decision. What you have is the banks joining together on things like Climate Action 100 or asset managers and essentially colluding. You have an open conspiracy that they're all going to do this together. And because of this imperfection in the market, you know, people put their money in an index fund and forget about it. But all of a sudden, you have three asset managers that control a huge amount of the public stock in this country. And when those three get together through Climate Action 100 or a net-zero asset manager and say, hey, we're going to collectively pressure companies to do that, then you don't have a free market or competition. You have a problem. And so what this bill does is in a very narrow, targeted way, it pushes back in that it says, at least as far as Nebraskans' public-- you know, retirees' money are concerned, we're going to act based on financial factors. That's all it does. And I think that's a way to at least push back and make a statement.

DUNGAN: Thank you. I appreciate that.

SLAMA: Thank you, Senator Dungan. Additional questions from the committee? Seeing none, thank you very much.

BEAU ROYSDEN: Thank you very much.

SLAMA: All right. Additional proponent testimony for LB743.

NEPHI COLE: Chair--

SLAMA: Welcome back.

NEPHI COLE: --members of committee, I just want to get my money's worth for my fuel. So Nephi Cole, N-e-p-h-i C-o-l-e, director of government relations and state affairs for the National Shooting Sports Foundation. And again, you've-- I'm not sure you need me to repeat my testimony about who we are, NSSF. We're the firearms trade association of America. I just wanted to note that this-- you know, there was a question asked about ESG, about, you know, a suggestion what if-- you know, what if this becomes normal? And we just sincerely hope that this type of stuff never becomes normal. So our members are seeing this. You know, when you talk about ESG policies, the firearms industry is directly counted in some of these ESG efforts. So people are scoring whether or not someone absorbs or, or asks people to go to take measures above and beyond the requirements of the law in ESG. And so to-- so in other words, we are one of the most-- as you mentioned banks, we're the most-- one of the most regulated. We'd like to believe we're the most regulated industry in the United States of America. So when another, when another entity says you need more regulations, but Congress won't pass those and so we're going to pass on through an ESG principles and banks, we're going to ask that people-- and this is a real thing-- restrict sales of certain types of guns, magazines, firearms to people who are 18 to 21 years old and those types of things. When you're asking people-- when you're coercing people through financial means to get them to, to employ those policies rather than letting government do government's job, we have concerns with that. And so again, our big ask on this is just your attention. We really appreciate that the state of Nebraska is-- that these-- through these policies and through this discussion that you're having, that you're finding ways to keep your finger on the pulse of this. And we just appreciate that you guys are willing to talk about it and because I believe that oversight is ultimately what cures this issue that ails us. So thank you.

SLAMA: Thank you, Mr. Cole. Questions from the committee? Senator Jacobson.

JACOBSON: I have one quick one. I, I feel your pain and I think that any industry that feels coerced to do something that they're innocent about and yet people want to change the federal law, but they want to use various industries to coerce action seems wrong to me. That's why I'm concerned about the community banks getting in the line of fire here when we shouldn't be.

NEPHI COLE: Madam Chairwoman, I would offer that we have seen-- you asked about local banks and in some of these bills nationally, we have seen things like a, like a, for example, a $100 billion asset floor, things like that that have precluded the impacts on local banking and things like that. So just a note that we've been supportive of those types of actions elsewhere and I think we would be here as well, so thank you.

JACOBSON: The bills are open to amendment.

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SLAMA: Thank you, Senator Jacobson. Additional questions from the committee? Seeing none, we'll take additional proponent testimony. Welcome back.

BETTE GRANDE: Thank you. Madam Chair and members of the Banking, Commerce and Insurance Commission-- Committee, my name is Bette Grande, B-e-t-t-e G-r-a-n-d-e, and I'm the policy director of the ProFamily Legislative Network. I'm testifying here today by-- at the request of Senator Kauth's office. Thank you for allowing me to speak. Supplemental testimony that was provided in the previous bill, LB730, that you should receive will apply also to this bill so it's-- makes it worth the read. You will also be receiving from me that-- what was being addressed earlier and that was Nebraska's Department of Justice issuing that exhaustive study on ESG back in the-- in December. Definitely again, one of those excellent reads that will be a great resource for you. Proponents of ESG and the social credit movement have been at this a long time. They've got a lot of little pieces to the puzzle to help decarbonize our economy and reboot capitalism. Today, public monies, including your state pension plans, are tools that drive ESG and result-- the results are not a good plan for its participants, our economy or taxpayers. This move is being done without the knowledge of the public, of the public, support or permission. This bill reinforces the traditional duties of the fiduciary that they are to act in the sole interest of the beneficiary to make interest-- investment decisions that generate, generate the high possibility in returns and the lowest expense and that's provided in Section 3. In lines 27 and 28, on page 2, the fiduciaries must act in a manner defraying responsibility expense that's related to admission-- administration of its benefits. It is important to understand that the fees and expenses charged by an investment firm for the ESG compliance funds are generally much higher than alternative traditional investments. The Department of Labor has moved to adopt new rules and Nebraska, along with 25 other states, have moved to block that rule from taking place. Finally, it is important to point out that the push to adopt ESG policies in the investment of public monies comes at a time when the public pension plans are struggling. Unfunded pension liabilities are growing and fiduciary place-- fiduciaries place more and more money in poorly invested ESG funds. Public pension plans are defined benefit plans and the U.S. Supreme Court recently ruled that they can-- that they are a contract. At the end of the day, pension plans does not have enough money to pay out their promised contracts benefits in state-- the state and that means the state taxplayers-- payers must guarantee these retirement plans. The taxpayers are ultimately liable to write that check.

SLAMA: Thank you, Ms. Grande. Are there any questions from the committee? Seeing none, thank you very much.

BETTE GRANDE: Thank you.

SLAMA: All right. Additional proponent testimony on LB743. Good evening.

GEOFFREY FRIESEN: Senator Slama, committee members, my name is Geoffrey Friesen, G-e-o-f-f-r-e-y, Friesen is F-r-i-e-s-e-n. I'm an associate professor of finance at the University of Nebraska-Lincoln. I'm here on my own behalf as a citizen of Nebraska. I have not had any contact or communicated with Senator Kauth, but I am here to testify in favor of this bill. I'm a-- I support environmental stewardship. I support social responsibility. And Senator Ballard, you asked a great question: who gets to define the E and the S and the G? And that's a subjective process. That's a subjective definition. And I think Nebraskans have the right to define E and define S for ourselves through a democratic process. We have the right to decide whether or not we want to explicitly use E and S in forming investment policies. And I see the intent or the spirit of this bill is about asserting that right, but I think it's also-- and I don't think we should be lost on this, this is a real problem, unlike maybe a perceived problem. This bill is about the terms and conditions of invested money when they come full circle and they are actually invested, not as bank loans, but a form of equity in the form of bond investments. We have seen, in recent years, an immense concentration of wealth, what John Coates at Harvard Law School would call the power of 12. There's some citations there at the bottom of the page. The idea that represent-- you know, represents the idea that in short order in a few years, the bulk of the financial power in the world will be concentrated in the hands of 12 or fewer individuals or institutions. I think ESG is subjective and therefore, it's going to mean whatever those 12 individuals decide that it means. Not what I decide that it means, not what opponents of this bill decide that it means. And I think opponents will point out or should point out that there may be some costs to passing this bill, at least in the short term. And there have been studies done in Texas and other places where a bill like that passed. There's some dislocation costs and maybe, you know, there was a little bit less competition when place-- certain banks exited the market. You know, some ESG factors are financial factors and some aren't and I see this bill as allowing anything with financial implications to be taken into account. But I think there's also a cost to not passing this legislation or this type of legislation and I'll close with that. If nobody passes these laws, then investment-neutral markets may and will disappear. And there will come a time when Nebraska businesses seeking to access capital through equity markets or bond markets are only able to do that on the terms dictated not by me, not by you, not by anybody in this room, but by the 12 who decide what the E and the S and the G in ESG investing mean. And I think if we end up in that long-term financial stranglehold, if we allow ourselves to walk into that situation, then we really have no one to blame but ourselves. So it's a choice about how we want to invest the public funds that are entrusted to us.

SLAMA: Thank you, Mr. Friesen. Are there any questions from the committee? Senator Ballard.

BALLARD: Thank you, Chair-- thank you, Chair Slama. And I have to get Professor Friesen back a little bit. You did give me my only B of my MBA career, so I have to get you back a little bit. So take a 30,000-foot--

von GILLERN: No Cs?

BALLARD: No Cs.

von GILLERN: Sorry, it's getting late.

BALLARD: I'll be brief. I'll be brief.

SLAMA: Let's rein it in.

BALLARD: So take a 30,000-foot view. What does, what does economics-- what does the economy look like? What does economics look like? What does finance and investing look like if fiduciaries took an ESG approach and only invested in nonrenewables, what have you? What, what is it-- what does the world look like?

GEOFFREY FRIESEN: You're asking me to extrapolate what my opinion is--

BALLARD: Big question.

GEOFFREY FRIESEN: --if-- yes-- only ESG factors were allowed to be incorporated--

BALLARD: Yes.

GEOFFREY FRIESEN: --into an investment policy. You know, there's, there's mixed research. Like a lot of, like a lot of areas, opponents will say these studies support my position; proponents will say these studies support my position. There are some factors that may have financial benefits, but there are also clearly factors at work and at play that are nonfinancial in scope. So I think ultimately, we would move away, among other things, from a market-based approach-- market-based decision making approach and the factors that would allow this investment money, state pension investing money through BlackRock or State Street or Vanguard, that money gets redeployed. It gets invested. So what are the factors that are used to invest that? Well, if it's not financial factors, it's going to be an E or an S or a G factor that Larry Fink at BlackRock decides or defines or somebody, you know, this-- a small group decides. The implication is perhaps money is channeled maybe into companies where-- that conform to their definitions. There may be a sacrifice of financial returns. That, again, is, is speculative. Probably there would be some sacrifice depending on the balance between the financial and nonfinancial factors.

BALLARD: [INAUDIBLE] Thank you. I appreciate it. Thank you so much.

SLAMA: Thank you, Senator Ballard. Additional questions from the committee? With that, thank you very much.

GEOFFREY FRIESEN: That's the danger of asking a professor a question about something he enjoys talking about.

BALLARD: Thank you.

GEOFFREY FRIESEN: Thank you.

SLAMA: All right. Additional proponent testimony for LB743? Seeing none, we'll now move to opponent testimony for LB743. And I'd ask if you are testifying as an opponent on LB743, you start making your way up towards the front. That way we can move quickly through and let everybody go along with their dinner plans for the evening. Welcome back.

MARILYN McNABB: Chair Slama and members of the committee, I've got water this time. I hope that helps. Thank you for the chance to talk about these subjects. I think that they are very important. I'm a member of the Lincoln Friends Meeting. I speak for myself here, but also with the support of the Lincoln Meeting. As I see it, both LB730 and LB743 are about socially responsible uses of wealth. LB743 is about public funds and LB730 is about financial services. Both oppose investing, investing based on nonfinancial factors. From Friends' point of view, that would be the equivalent of saying that the only acceptable financial decisions must be based on something other than conscience. Here's the problem: for centuries, Friends have believed that financial decisions should be based on conscience. As John Woolman, one of the most articulate Friends of his time in the 1770s said, may we look upon the treasures, the furniture in our houses and our garments, and try to discover whether the seeds of war-- in other words, violence-- have taken nourishment in these possessions. Slavery, a violent system of Woolman's time, was good business if you considered only the numbers. But in 1758, the Philadelphia yearly meeting prohibited its members from the business of buying and selling humans. These kinds of perspectives and choices are not just with Friends. John Wesley gave a famous speech called "The Use of Money" that concluded, we ought not to gain money at the expense of losing our souls. Perhaps the most remarkable results from applying moral insight to investment decisions came from campaign-- the campaign to move investments out of South Africa. The transition from the racist legal and social system of apartheid to a much more democratic and inclusive system occurred with remarkably little violence, in large part because of the international divestment movement. The Nebraska Legislature made a significant contribution to the success of the effort to divest from South Africa. But now we're not looking at slavery or apartheid, but climate change. Broad agreement among scientists say the oil, gas and coal companies must make enormous changes in a short time. Those changes are urgently necessary to achieve some degree of stability for the global climate system. You can find a list of the more than 1,500 organizations around the globe who have divested from at least one of the fossil fuels. And then I give the-- in my handout the website. In my view, the Legislature should not try to impede individuals, organizations or public funds from digest-- divesting from fossil fuel companies. These choices based on conscience should be honored. And I wanted to say one thing about the professor who spoke before me. I also worry about concentration of wealth, but that, that proposed bill is the last way I would ever write a way of going after stopping concentration of wealth. It just-- they don't, they don't work together. Any questions?

SLAMA: Thank you. Ms. McNabb. Could we get you to say and spell your name for the record again?

MARILYN McNABB: Oh, no. I did it again.

SLAMA: So sorry.

MARILYN McNABB: It's Marilyn McNabb, M-a-r-i-l-y-n M-c-N-a-b-b.

SLAMA: Wonderful. Thank you. Let's check and see if there are any questions from the committee. Seeing none, thank you very much. Good evening.

BOB HALLSTROM: Good evening. Chairperson Slama, members of committee, my name is Bob Hallstrom, H-a-l-l-s-t-r-o-m. I appeared before you today as registered lobbyist for the Nebraska Bankers Association in opposition to LB743. My testimony goes into much greater detail so I'm just going to try to summarize in the limited time. Our opposition is not predicated upon the industries or activities that are being protected under LB743. The bill could have just as easily been introduced addressing issues from the completely different side of the political spectrum. I've talked in my testimony about fiduciary duty, everybody's favorite subject, but it's important to note that there's a duty of loyalty, there's impartiality. There are undisclosed conflicts of interest, restrictions on self-dealing and the prudent investor rule. All of those things go into the primary, or in this case, the sole issue under LB743 of looking out for the financial interests of the beneficiaries. At the top of page 2 of my testimony, I've noted that a trustee's use of ESG factors in making investment decisions under current law violates the duty of loyalty if it is motivated by the trustee's own ethics or is used to obtain collateral benefits for a third party. When you look at the bill, we have some problems with the mixed messages. On page 2 again, I cite Section 2, subsection (3)(a), which defines financial as anything having a material effect on the financial risk or the financial return of an investment. And at the same time, the mixed message is, however, backed out of that definition of financial is any action taken or factor considered by a fiduciary with any purpose whatsoever to further social, political or ideological interest. Senator Dungan's question hit the nail on the head in terms of saying isn't it adverse to the fiduciary duty of the trustee or the investment adviser if there are specific investments that are prohibited? And we believe that to be the case. Interesting on pages 3 and 4 of my testimony, I talk about some commentators who have looked at the ESG investments on the basis of collateral benefits ESG. Those are-- that are to make the world a better place and to benefit third parties, which are unacceptable under the duty of loyalty and fiduciary duty and risk return ESG, which would be part of that looking out for the best financial interest of the beneficiaries. Fiscal impact is on page 5. I would just note for the committee, even though the fiscal note in Nebraska has said we can't get our arms or our brain around the cost, Indiana had a-- virtually a very similar bill HB 1008, which indicated that with the changes in investment policy and investment decisions, that $6.7 billion-- with a "b"-- would be the estimated cost over a ten-year period. So I think the, the estimated costs are certainly of significance. When you look at the investment counsel, I think it's important. BlackRock seems to be driving a lot of this. I'm not going to speak to BlackRock. I don't have an opinion on them. But if that's the case, the investment counsel that has come out this week noted that they're looking at shifting funds from BlackRock. And if nothing else, the introduction of this bill perhaps had a positive effect on that. And in closing, I just draw to your attention the Stanford Law Review article provisions on page 6, which concisely suggests that the current law is sufficient. There are limitations under current law in the fiduciary duty of the trustee as to when they can make ESG investments and that should be satisfactory without putting in the additional impediments under LB743. With that, I'd be glad to address. I, I would like to make one correction for the record. I think the individual that testified first indicated in response to Senator Dungan's question about financial alternatives that he used the unless no economical practicable alternative exists. My reading of the bill is the economically practicable alternatives only apply to proxy voting. It is not with regard to alternative investments, as I read the bill.

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SLAMA: Thank you, Mr. Hallstrom. Are there any additional questions from the committee? Seeing none, thank you very much.

BOB HALLSTROM: Thank you.

SLAMA: Good evening.

AMY THOMPSON: Good evening, Chair Slama, members of the committee. My name is Amy Thompson, A-m-y T-h-o-m-p-s-o-n. I'm an attorney with the Omaha law firm Fraser Stryker and I'm an employee benefits attorney specializing in employee benefits and related fiduciary laws. I am testifying on behalf of Omaha Public Power District and the Nebraska Power Association in opposition to LB743, a bill changing public fund fiduciary obligations. Thank you for the opportunity to submit testimony today. It is our position that LB743 is unnecessary and changes fiduciary obligations in ways that will be detrimental to employees and customers. OPPD funds are not funds of the state, but due to the potentially broad meaning of the term public funds in LB743, we believe it may adversely impact OPPD employee-- employment retirement funds held in trust as well as our tax-exempt bonds that are underwritten by and held in major financial institutions. With regard to retirement funds, our fiduciaries already have strict obligations under Nebraska law that ensure investments are made in retirees' best interests. Our investment directives are clear: maximize asset returns within reasonable and prudent levels of risk, provide prudent diversification and exercise proxy votes to preserve and enhance shareholder value. LB743 does not account for the multifaceted fiduciary duties of prudence and loyalty under Nebraska law and could force fiduciaries to take imprudent actions that result in plan investments with higher risk and lower return. To illustrate, consider that the broad language in Sections 4(3) and 4(5) prohibit, without exception, public fund fiduciary from divesting or limiting investments in certain companies, even if such companies are determined to be financially high-risk investments. On its face, the bill would require that fiduciaries ignore the financial risk of keeping investments in Section 4(3) or 4(5,companies that have financial liability exposure. In other words, to be forced to make imprudent investment decisions. Studies examining the effects of such requirements in other state funds establish a reasonable presumption that LB743 has the potential to result in extensive administrative costs to the plan and potential investment losses. Any such losses could lead to fiduciary breach of duty claims by participants who experience related investment losses in their retirement savings. The cost to any public fund in defending fiduciary breach claims and losses incurred in fees, management costs, administrative costs, attorney's fees, as well as lost earnings would be significant. Also, the ambiguities in Sections 3(4) through 3(6) could result in the loss of qualified financial institutions that provide competitive interest rates for bonds, as well as experienced investment managers that have effectively served plan funds. At least one study has already illustrated the costly effects of legislation similar to this bill on other states, citing costs in the hundreds of millions and higher interest rate interest payments and municipal bonds. The potential costs, fees and interest rate increases associated with replacing those investment managers and financial institutions could be staggering. It is our position that LB743 is unnecessary and would tie the hands of fiduciaries charged with the issuance of bonds and investment of retirement planning funds. It conflicts with established law, it creates potential liability and it puts our funds at financial risk. OPPD's fiduciaries already adhere to the highest standards of prudent investment under Nebraska law. LB743 would financially punish OPPD, its employees and its customers, which is why we strongly oppose this bill. Thank you for your time. Any questions that you may have?

SLAMA: Thank you, Ms. Thompson. Any questions from the committee? Seeing none, thank you very much.

AMY THOMPSON: Thank you.

SLAMA: And just while we're getting reset here, could anybody who hasn't testified yet who plans to please raise your hands just so I can get a guesstimate for time? Wonderful. Thank you very much. Good evening.

DEXTER SCHRODT: Madam Chair, members of the committee, good evening. My name is Dexter Schrodt, D-e-x-t-e-r S-c-h-r-o-d-t, president and CEO of the Nebraska Independent Community Bankers. Community banks around the state are honored to be the holders of public funds from various public-- political subdivisions and governing bodies. It's a duty we do not take lightly. And as we recognize the importance of being stewards of taxpayer dollars in this manner, LB40-- LB743 seeks to address a problem not currently present in the administration and investing of these public funds in our community bank institutions. And the majority of the bill is duplicative in what our role already

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is with regard to these funds as a fiduciary, the word of the hearing. You know, the bill doesn't actually define what a fiduciary is. It just says who is a fiduciary. So the fiduciary relationship exists any time there's a principal, an agent, and the agent has a duty to uphold, as you heard from previous testifiers, the principal's interests. Thus a fiduciary relationship and duty is inherent upon a bank when it does take public funds under its care. The bank has a duty to only act in the best interests of the public subdivision, political subdivision or the governing body from whom the funds originated. Fortunately, the best interest of those public funds and the business interests of the bank are quite often aligned in that seeking return on investment is the ultimate and primary goal. To seek fast return on investment, banks need to assess risk properly. Social, political and ideological interests should not be considered as a separate individual category risk, but rather these considerations fit into risk as a whole when examining any one investment options. In a free-market economy, there are ebbs and flows in industries and investments and banks should be free to invest without government interference in any legal activity or entity in order to maintain our fiduciary obligations. Real quick, we also find it concerning the expansion of the Attorney General to oversee banks under this bill. We do already have primary regulators, both at the state and federal level, and I would not like to add other regulators. My members would not like that as well. You know, this is going to expose our employees to unnecessary burden inquiry all under oath, meaning potential criminal violations could even stem from that should they say the wrong thing without counsel present. So I just wanted to throw that out there. And for all those reasons I mentioned the NICB requests the committee not advance LB743.

SLAMA: Thank you, Mr. Schrodt. Are there any questions from the committee? Seeing none, thank you very much.

DEXTER SCHRODT: Thank you.

SLAMA: Good evening.

AL DAVIS: Good evening. Chairperson-- Chairwoman Slama and members of the committee. I know you've had a long day and thank you for all your service. My name is Al Davis, A-l D-a-v-i-s. I am here today as the registered lobbyist for the 3,000 members of the Nebraska Chapter of the Sierra Club and whose focus is on environmental law. The Nebraska

Chapter of the Sierra Club finds LB743 to be a troublesome bill for multiple reasons. The bill is chock full of vague language, filing requirements, disclosures and the like, which will certainly had significant cost for the management of funds by political subdivisions. The vague language will invariably lead to uncertainty about proper procedure, which eventually ends up in the courts, which is why the Attorney General's Office is brought into the bill. A financial manager or a team of managers is often hired by a political subdivision to do the work of managing those funds. The objective of the fund manager is to maximize return on the investments, but to do so with the mind to the safety of the initial capital. It would be naive to believe that managers do not look at social trends for guidance in making their investments because those social trends indicate where sectors of the economy are going to grow or shrink. Would a comp-- would a comment from a manager explaining why he sold stock in a coal mine based on concerns about the viability of the industry be perceived as bias? Or would a fund manager stating why he divested from AltEn in Mead, Nebraska, be subject to reprimand sense-- and I quote here-- failure to meet environmental standards or disclosures unquote is protected under this bill. That's language right in the bill. Would industries like Facebook and Google continue to invest in Nebraska knowing that their stock may be looked upon with skepticism by the Investment Council because of this law? Access to green energy was one of the fundamental requirements when those companies located in Nebraska. While the bill may seem fairly innocuous, it has enormous ramifications. Imposing barriers on the management of public funds hurts all Nebraskans on both sides of the equation because erecting guardrails will ultimately reduce the return of investment and expose the public funds to more instability and uncertainty. Fund managers are going to look very closely at the statutes the state incorporates and may raise fees in those states or simply pull out of the state entirely. Finally, at the state level, we may find it harder to fill slots on the Investment council or on the Public Employees Retirement Board. This is simply a bad bill which needs to be killed. Thank you.

SLAMA: Thank you, Mr. Davis. Are there any questions from the committee? Seeing none, thank you very much.

AL DAVIS: Thank you.

SLAMA: Good evening.

TOM PAPPAS: Good evening. My name is Tom Pappas, T-o-m P-a-p-p-a-s. This is like a dream come true, but I never dreamt it. I, I'm-- I didn't intend to testify today, but I wanted to compliment this group on professionalism and collegiality. I just-- it gives me high hope. Twenty years ago, I got a call from Steve Alexander, a wonderful broker for UBS, and I decided to put some money with him. I didn't have money, but I put some with him. And today or recently, my wife and I were saying, we're rich. I was-- I wasn't rich, but I'm, I'm now rich. I don't, I don't look like it. Well, how come? Well, because of, because of the advice of Steve. One of my, one of my saddest days was to learn that Steve died during COVID. He died of COVID. He was just such a wonderful man. I went into Steve and said, I'm really interested in ethical investing. And I was really naive. To me, that meant green 'cause I'm kind of a tree-hugger guy. And he was kind of interested in it, didn't know so much about it. But the next time I went back, he said, I've got, I've got more for you and it became ESG. I decided to talk today when ESG was being used as kind of a pejorative term and I don't want it to be seen that way. It's really important to me. It's important-- and I'm not the only Nebraskan that feels that way. My neighbor who left this, this chair said, this is the bill that I came for, but I have to go home. So there's two of us at least. But the point is, we make investments for money down the road, but we also need to invest in ways that don't kill our planet. We need to act and we need to act fast and I think ESG is a way to do that. And so I would encourage you to take that into account when you deliberate on this bill.

SLAMA: Thank you, Mr. Pappas. And I think I speak for everybody on the committee left standing that your kind words about us mean more than, more than you know so we really appreciate it. Are there any questions from the committee? Seeing none, thank you very much. Good evening.

TERRY LANGAN: Hi. My name is Terry Langan, T-e-r-r-y L-a-n-g-a-n. I'm here representing myself. I also have kind words for your service, for your commitment to, to what you do here. It is impressive. I'm only here for one day, but you're here every day since, so it's-- and I have several concerns. And with this piece of legislation and the previous one. You know, these, these funds weren't incepted as some nefarious plot. They, they were as Mr. Whitehead-- just as he described, he-- his company, his business serves a demand. These funds were incepted. They were researched, created, developed to serve a demand of people like Tom and millions of other people around the country who have felt the same way. And the-- this, this piece of legislation, for, for two reasons, really, for what the gentleman referred to, the, the prudent investment rule, which the Nebraska Supreme Court has already ruled on that, that investment options don't need to only consider their highest return possible. That's already established law. And in my opinion, we can ask legal counsel. I might, I might ask to-- maybe I'll ask you a question.

SLAMA: Sorry, we can't do that, Mr. Langan.

TERRY LANGAN: I can't do that? OK. But also the Attorney General's role to, to potentially, as the gentleman from the firearms lobby suggested, that the state put its thumb on the scale. That those potential legal ramifications by the state can prohibit or influence fiduciaries' responsibilities to making what, what Senator Dungan was trying to describe as an equal decision between, you know, this potential financial outcome, this potential financial outcome. That threat of action from the state could influence those decisions, you know? And I don't know why this LB743 has that and not LB730 other than to-- not direct the ire of Senator Jacobson here personally, but that's a-- but on both of those, I think, I think people should be able to make their own investments and that includes the taxpayers of Nebraska. And all of the, the retirement accounts for all of our state employees here should be able to move to what Senator Dungan also says is, is-- that's a trend. It's a large-- and the opponent-- or the proponent of the bill had mentioned two-thirds of federally- or of traded funds are, are in these, two-thirds of every dollar. You know, that's more than a trend. That is the way the world is going. People want to live and they want to live sustainably into the future for their great, great grandchildren. And they, you know, are looking for ways to do that. So to make a statement at the cost to taxpayers in favor of this legislation, I think, is a big mistake and a long-term scary--

SLAMA: All right.

TERRY LANGAN: Thank you very much.

SLAMA: Well, thank you very much, Mr. Langan. Let's see if there's any questions from the committee. Seeing none, thank you very much for sticking around today to testify.

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TERRY LANGAN: It's been fascinating. Thank you.

SLAMA: All right, opponent testimony on LB743. Good evening.

ROBERT M. BELL: Good evening. Chairwoman Slama and members of the Banking, Commerce and Insurance Committee, my name is Robert M. Bell. Last name is spelled B-e-l-l. I'm the executive director and registered lobbyist for the Nebraska Insurance Federation. I'm here today to testify in opposition to LB743 as drafted. I do believe this is the latest I've ever been at the Banking, Commerce and Insurance Committee of many, many years of watching this committee. So I appreciate you sticking around. As you know, the Nebraska Insurance Federation is the state trade association of insurance companies. Some of the federation members are involved in the investment of public funds and work closely with public agencies on the proper investment of the-- these funds. Insurers bring great expertise to the investment of the public funds and seek to use this expertise to provide value to the customers. We believe insurers are very successful managers of public funds. As a former state employee myself, I look forward every year to receiving my dividend in my state retirement plan. So thank you in NPERS is watching or in the room. So I'm not going to belabor everything that's already been said. There's a lot of confusion on the drafting of the bill, on the language of the bill. We, we're concerned that there are provisions that would bleed over into private decisions made by insurance companies. And so as the Legis-- as the Legislature continues discussions on investments of public funds, I would recommend caution on beyond-- going beyond the realm of public funds and look forward to working with Senator Kauth and the committee on refinements of LB743.

SLAMA: Thank you very much, Mr. Bell. Are there any questions from the committee? Seeing none, thank you.

ROBERT M. BELL: You're welcome.

SLAMA: All right. Additional opponent testimony for LB743. Neut-- OK, seeing none, we'll now move to neutral testimony on LB743.

MICHAEL WALDEN-NEWMAN: Trying to save some time.

SLAMA: No worries, thank you. Good evening.

MICHAEL WALDEN-NEWMAN: Hello, Chair Slama and members of the committee. My name is Michael Walden-Newman and that's M-i-c-h-a-e-l, last name is W-a-l-d-e-n-N-e-w-m-a-n, and I'm the state investment officer with the Nebraska Investment Council, which I assume you know, is the state agency created in 1969 to consolidate investment of all public funds in the state of Nebraska. And that includes-- it's $30-35 billion spread across, today, 32 different investment programs that we work with, 60 to 70 investment managers and have over 150 separate investments. I heard about the-- I've been at the council-- I'm in my ninth year as the investment officer and I did this ten years in Wyoming where we raised our kids. And before that, spent 18 years as the director of the Wyoming equivalent of the Platte Institute that you have here in Nebraska. I saw the bill drop the last day of bill introduction and thought, I bet we're going to get a request for a fiscal note. So the next day, I went over to Senator Kauth's office and asked if they could direct me to the, the-- whomever drafted the bill so I could wrap my arms around maybe some of the thinking behind it. And if anyone else, any other state had done this to get an idea of where to begin with the fiscal note, because as you know, the fiscal notes are due a week after the bill is introduced. And that-- I was-- I knew was probably not going to be enough time for me to do it. I want to thank Senator Kauth's staff and Senator Slama's staff, which was my next stop, for finally directing me to the Heritage Foundation in Washington, D.C., which drafted this model legislation. And as I understand it, it's been introduced in six states as of last week and six more should be this week, according to the Heritage Foundation. I'd like you to know that the Investment Council already operates under a fiduciary rule. It's spelled out in state law very clearly. It applies to us to act as fiduciaries for the funds entrusted to us and the beneficiaries of those funds, but also the broad taxpaying public of Nebraska, because, of course, they ultimately pay for everything. We have a law that prohibits us from making an investment if it is solely for social purposes and that we have used to defend the independence of the Investment Council in decision making and fulfilling our fiduciary rule against divestiture laws. I have a last thought.

SLAMA: Absolutely. Finish your last thought.

MICHAEL WALDEN-NEWMAN: My last thought is that I assume you've heard today what I think and that is there's enough complication with this bill that you'll entrust it to the Legislative Research Office to study over the interim. We've been looking at this for a year now in terms of the managers we use and taking-- in fact, taking back proxy voting for the council ourselves. We're not at a decision point yet, but we will be if you let us have some time while you study it as well. And we'll be happy to participate in that. And I'm happy to answer any questions and you know I'd love to talk more about this.

SLAMA: Thank you, Mr. Walden-Newman. I, I actually have a question for you and I apologize to the committee, but you brought up the concept of proxy voting. And I think that's something, if nothing else, that we should have in the record. Can you explain proxy voting and how that operates with the Investment Council and their interactions with different investment firms?

MICHAEL WALDEN-NEWMAN: Absolutely, Chair Slama. I think it's important for people to understand we cede our proxy voting to our managers. Most of the money that we manage is with external money managers. We manage the state's checkbook, which is in-- now you know, I don't need to tell you, growing like top seeds in the-- in $8 billion now. That we manage in-house, but the rest of the money is all with external money managers and we follow industry practice in ceding our proxy votes to our external money managers. That's how it's been. And I say how it's been because I don't need to tell you that this ESG, which has been around-- issue, which has been around-- I remember a part which was mentioned earlier in my professional life. We had a bill in front of us in 2016 to divest from fossil fuels and we used that same statutory language of not passing, not making investments for social purposes to deflect that bill when it came up. But now that this has been brought to the floor and admittedly by the CEO of BlackRock, we've been discussing whether we should take proxy voting back so that even though we're invested in index funds with BlackRock, that's what we have is investments. The broad U.S. market, the broad non-U.S. market assets for our asset allocation are invested in index funds, which I view as a commodity. You get them where you can as cheap as you can with a manager who can do it. But we've been discussing maybe what we want to do is carve out Nebraska's assets inside of those index funds that our pro-ratas share and vote those ourselves in a neutral way that meets our fiduciary responsibility, which again is to only consider-- this is a big phrase, but the, the financial materiality of the investment. I call it the financial so-what test, you know, just to reduce the number of syllables. So we are considering that, but consider that, it's going to take time. And we're very deliberate and very careful because we believe that taking time on the front end makes for a lot better decisions on the hind end, especially when you want those decisions to stand. And we do. So we're careful in our asset allocation decisions. We're careful with manager decisions. And this is going to take some time. By time, I think we're going to know within a year where we're going to go, but it's not going to be next week and it's-- I don't-- it's not going to be during this legislative session. I'll just-- I'll be honest with you. I'm just afraid that without special meetings, we're just not going to get to that place. So I'm hoping you're going to take some time. Study it over the interim and we'll be right there with you.

SLAMA: Thank you, Mr. Walden-Newman. I appreciate that. Any additional questions from the committee? Senator Jacobson.

JACOBSON: At the risk of the ire of Senator von Gillern, I'm going to ask--

von GILLERN: Close.

JACOBSON: I think I'm real close there.

von GILLERN: Me too.

SLAMA: Ditto.

JACOBSON: First of all, thank you for being here today and testifying in a neutral capacity as a state agency. Hopefully, other state agencies will follow your course in expressing your concerns about a bill without taking an opposition view in your testimony.

MICHAEL WALDEN-NEWMAN: Senator, last time I looked, the taxpayers of this state were paying my salary.

JACOBSON: That's exactly right. Now I-- and I appreciate you recognizing that. I also appreciate your thoughtful testimony. And I would tell you that I completely agree and I would work with Senator Kauth-- we've been working together on some disagreements on the bill-- that that is a prudent path forward and I think it does take study. And I would be more than happy to sign onto an interim study that would, that would figure out what's the best, best path forward. Making knee-jerk reactions is not the way to go and so I appreciate your testimony today and thanks for being here. And thanks for sitting

*Indicates written testimony submitted prior to the public hearing in accordance with the Legislature's guidelines on ADA testimony

through all this. It's 6:30 and I'm guessing you're not on overtime are you?

MICHAEL WALDEN-NEWMAN: Committee, I can tell you that in my time in Wyoming, I sat through a lot of hearings, both inside government and on the outside looking in. In Wyoming, the chairs were the old school chairs that are oak. There's no padding. The committee members always-- the committee chairs said I like a small room and hard chairs. It makes the meeting go a lot faster.

SLAMA: Point taken.

MICHAEL WALDEN-NEWMAN: This is much more comfortable. That's why-- my wife and I moved here nine years ago for the job and that's why we're going to-- we just bought our permanent house and we're going to live right here in Lincoln. You're going to pull me out feet first. We love it here.

SLAMA: Outstanding. I'm glad to hear it, Mr. Walden-Newman. Any additional questions from the committee?

von GILLERN: No.

SLAMA: Seeing none, thank you very much.

MICHAEL WALDEN-NEWMAN: Thank you. Thank you for having me.

SLAMA: All right, additional neutral testimony on LB743? Seeing none, before we close out the hearing on LB743, we have 21 proponent letters for the record and 3 opponent letters for the record. Senator Kauth waived closing so that brings to an end our hearing on LB743 and our hearings for the day. Thank you, everybody who stuck--